

Democratic Cooperative Housing Development

Procedural Manual for Poland

by

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Preface

We would like to acknowledge the role of several persons involved in the design and preparation of the *Democratic Cooperative Housing Development. Procedural Manual for Poland*, which leads the user through the necessary steps to the cost effective development of affordable housing in Poland's emerging market-oriented economy.

Dr. Judith A. Hermanson, CHF Executive Vice President for International Program, designed the project "Cooperative Housing in a Market Economy: A Replicable Model for Poland". One of the tangible outcomes of the demonstration project was to be a practical tool which could guide any group in Poland wishing to adapt its operation to the new environment created by a housing sector in transition. Dr. Hermanson provided overall direction and management throughout the project.

Dr. Barbara Czachorska-Jones provided project management and support from CHF Silver Spring, MD based Headquarters. Herself a lawyer, she contributed assistance in both the original project design, its implementation, and the editing of the manual.

The two primary authors of the *Manual* are the CHF staff responsible for project implementation in Poland. **Krzysztof Raciborski**¹ and **Wojciech S. Wojtysiak** worked with their local partner organizations and provided technical assistance throughout the development cycle. Both trained as architects, with education and experience from Poland as well as the United States, they initiated fieldwork in Poland on April 15, 1992. Wojtysiak worked in northeastern city of Bialystok, whereas Raciborski worked in Zory in the southern region of Silesia. The *Manual* reflects their work and is based on the process that they developed or adapted, as well as on relevant materials gathered and developed during the project.

Beginning with summer of 1994, based on success of the pilot efforts in Bialystok and Zory, and the demand for the methodology manifested by

¹ In a tragic turn of events, on March 11, 1995, Krzysztof Raciborski died in a car accident near the city of Szczecin in Poland while working on this project. He was an effective and resourceful organizer, enthusiastically working toward implementation of housing reforms in Poland. His colleagues and friends at CHF and the organization itself feel the loss of Krzysztof deeply. This manual is, in part, a tribute to his vision and his efforts on behalf of a new way of life for the people of Poland.

cooperatives and local governments at a national conference held in June of 1994 in Warsaw and through direct contact with CHF, both Raciborski and Wojtysiak began to travel extensively within Poland, widening CHF outreach at the local level and promoting the idea of facilitating market-based housing development by non-governmental organizations (*Agencies to Support Housing Initiatives*, English acronym "AIM"). The *Manual*, to which both Advisors contributed, with Raciborski providing the initial design and outline, is currently being used by CHF as a training tool for the AIMs and by the AIMs as a resource and guide for the development of housing for the democratically organized housing cooperatives and others whom they are assisting on a fee for service basis.

Introduction

Demonstration Project in Poland

In response to new political and economic conditions, the Cooperative Housing Foundation (CHF) developed and implemented a model cooperative housing project in Poland based on private ownership, democratic principles, and market assumptions. Beginning in 1992, CHF's advisors assisted two small cooperatives to build new homes for their members. In Bialystok, the Alternatywa cooperative built 51 apartments; in Zory, near Katowice, the Kleszczowka cooperative built 40 row houses, and 40 more are currently under construction.

The new approach reflects the close collaboration of all the parties involved: the cooperative members, the housing cooperative, the gmina (local government), and the bank. The completed homes reflect the cooperative members' preferences in the context of the financial resources available to them.

The model project demonstrated that a private, cooperative effort can play an important role in Poland's transition to a housing delivery system based on a market economy. To further support the transition, CHF's advisors also provided assistance to the gmina as it developed policies and procedures to promote ongoing private approaches to housing delivery. The demonstration project in Poland was much more than a construction project. Rather, it provided a testing ground for the direct application of new procedures and systems for housing development. It also served as a forum for implementing individual mortgage loans under the new housing finance system being instituted in Poland.

The project successfully demonstrated that a private, cooperative approach to housing development can be democratically organized, responsive to consumers, cost-effective, and timely. The project also provided background material for this procedural manual, which may be used by others as a guide through the complex housing development process.

New Approach to Housing Development

The cooperative housing development model on which this manual is based is a market-based model. This means that the housing produced corresponds to what individual cooperative members can afford using their existing financial resources and a housing loan for which they may qualify. At the same time, the model is applicable to housing ventures that are not geared toward the high-priced end of the market. Rather, the flexible and cost-saving mechanisms of this approach allow the development of less expensive but attractive housing that satisfies the needs of those who can afford less at the present.

The model presupposes new roles for the main participants in the process: the role of equal, collaborating partners working together toward the common goal of housing development. The reason for the new approach is simple. All of the parties involved - the cooperative members, the cooperative (acting as a developer), the gmina, and the finance institution - depend upon and interact with each other in the process of developing housing. The combined effort of all the individuals and organizations involved contributes to the successful construction of a housing project.

This approach is new in comparison to the practice developed during the past three decades, during which housing cooperatives evolved into large organizations fulfilling simultaneously the role of developers and managers of large, multi-family housing projects. Following the political and economic developments of recent years, many new, small-size housing cooperatives have been registered. Most have been unable to build houses for their members because of a lack of long-term financing and difficulties preparing and carrying out the complex housing development process. This procedural manual provides a useful tool to assist any group that may wish to follow its guidelines.

Benefits of the New Approach

The benefits of the collaborative approach are significant for the whole community.

Cooperative members join together to pool their resources and build housing for themselves using private financial resources, including savings and mortgage loans from commercial banks. In addition, cooperative members are directly involved in developing and implementing the housing project. Working together, members define their housing preferences, assess the impact on their budgets, learn about building technologies, modify architectural designs to fit their preferences and financial resources, review construction bids, negotiate with contractors, and closely monitor construction activity.

Through the cooperative's democratic processes, members have the ability to vote when important decisions must be made, thus providing opportunities to express their preferences and control costs. Cooperative members also have the ability to make choices about the design of their house based on what they can afford. In order to keep construction costs low, members can choose a smaller lot, fewer rooms, less costly building technologies, or various levels of finish.

The housing cooperative acts in this context as a local developer based firmly in the community. Its actions are geared toward the needs of the particular group that makes up its membership. The implications are significant: the project's budget is not based on abstract criteria, but is developed in direct relation to the financial capabilities of each particular group of cooperative members. A variety of cost-saving measures can be incorporated to bring down overall project costs.

Through this approach, the gmina or local government can begin to develop a new role for itself by facilitating housing production by the private sector rather than by taking direct responsibility for construction financing and management. Close collaboration with a local group of cooperative members assures that the project's preparatory processes and implementation procedures are facilitated and coordinated. The result is that a significant amount of time is saved and the housing development process is shortened. Attractive housing is produced that demonstrates the gmina's commitment to meeting the housing needs of the community. At the same time, policy issues regarding the environment, land use, changes in the labor market, and the direction of community development may be better addressed with the involvement of the local electorate.

The bank or a financial institution that becomes a partner in the cooperative development venture gains an educated, responsive, and responsible clientele who understands the financial implications of the commitments they have undertaken. Long-term financing arrangements, although requiring a commitment of individual resources, can bring the reward of attractive housing built to the owner's desires in a shorter period of time.

Procedural Manual

This manual is not a construction manual. Its purpose is to provide an overview of the cooperative housing development process seen as a joint, coordinated effort of the main partners involved. The material gathered here is designed to guide cooperative members and their professional advisors step-by-step through their dealings with the other partners involved in the successful development of a housing project while at the same time pointing out the most important practical issues to be considered.

It should be stressed that the manual is not a substitute for professional advice. Experience has shown that volunteer cooperative members lack the knowledge and time to manage the overwhelming and complex problems involved in developing a housing project. Cooperative

members have an important role to play, but a professional advisor is needed to help achieve the main objective of the undertaking: to develop a housing project on time and within budget. Professional technical services may soon be available in Poland through the agencies to support housing initiatives that are now being established within the framework of a new CHF project supported by the U.S. Agency for International Development.

The manual is divided into four parts, each of which addresses the relevant tasks and responsibilities from the point of view of the main partners in the housing development process: the cooperative members (Part 1), the housing cooperative (Part 2), the gmina (Part 3), and the bank (Part 4). Within each part, the text identifies the essential steps to be implemented and comments on the procedures involved. Each part is preceded by a table that provides a summary of action required of each partner and illustrates the interrelationship of the steps to be taken in the course of project preparation and implementation.

Each step includes a concise description of the most important activities relevant to the step's implementation. A detailed commentary follows, which reflects the experience of CHF's advisors during implementation of the demonstration project. Particular concerns or issues to be noted are identified next. Finally, cross reference is made to parallel action being taken by other partners and to sample documents or explanatory information included in the appendixes. A glossary of selected relevant terms is available following the appendixes.

Cooperative Housing Foundation

CHF is a private, nonprofit organization, headquartered in the United States, that provides technical assistance to help people and organizations build better housing and communities. CHF's work spans the globe with a variety of programs related to the development and upgrading of housing and community services in urban and rural areas. In 1991, CHF received an award from the United Nations Centre for Human Settlements (Habitat) for the effectiveness of its people-oriented approach.

Table 1.0
Interrelationship of the Steps and Summary of Action Required of Each Partner

Cooperative Members (M)	Housing Cooperative (C)
Step M-1 organize a group to initiate the housing project define the project's objectives	
	Step C-1 is legally established considers pre-conditions for development of the project
	Step C-2 selects a site for the project reviews the terms for development of the site defined by the local inquires about land acquisition procedures and signs a mutual agreement with the gmina
Step M-2 compare what they want with what they can afford analyze their credit abilities	Step C-3 conducts a market analysis determines how much each member can afford develops a marketing strategy
Step M-3 review architectural concepts for the project define individualized budgets	Step C-4 analyzes financing options develops a preliminary budget
Step M-4 select the architectural design evaluate the cost of development and method of financing	Step C-5 selects an architectural and site development concept develops a formal budget
	Step C-6 applies to the gmina for site development terms develops a preliminary feasibility plan for the project makes an offer to purchase the land
Step M-5 review the commitment to transfer ownership apply for mortgage loans	Step C-7 <ul style="list-style-type: none"> • reviews the site development plan • develops a financial and technical feasibility plan • prepares commitments to transfer ownership
Step M-6 make a commitment to participate in the project	Step C-8 verifies members' financial credibility

make a down payment toward the land purchase price	acquires the land for the project
	Step C-9 applies for a construction loan
	Step C-10 obtains approvals for the terms of development completes the site development plan
	Step C-11 prepares the invitation to bid for construction services
Step M-7 participate in selection of the contractor authorize the cooperative to apply for a construction loan	Step C-12 solicits bids for construction services
	Step C-13 negotiates an agreement with the contractor coordinates the construction and payment schedules
Step M-8 sign a commitment to transfer ownership determine the loan amount needed for construction make a down payment for construction costs	Step C-14 signs an agreement with the contractor
	Step C-15 obtains a building permit
Step M-9 make payments during the construction process	Step C-16 manages the construction period for the project
	Step C-17 accepts final completion of the project
Step M-10 take ownership of the property from the cooperative make final settlement of financial and legal matters obtain occupancy agreements	Step C-18 authorizes occupancy of the units transfers ownership of the property

* Activity in Step C-4 relates to both Step C-7 and Step C-10

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Introduction

Table 1.0 (continued)
Interrelationship of the Steps and Summary of Action Required of Each Partner

Gmina (G)	Bank (B)
Step -G-1 provides information about land use and development terms	Step B-1 participates in defining the project's overall feasibility criteria
Step G-2 provides information about the sale terms of the municipal land selected by the cooperative	
Step G-3 issues a decision on terms of site development	
Step G-4*	Step B-2

executes the site development plan with technical and social infrastructure	• makes a preliminary evaluation of financial feasibility
Step G-5 sells the land for the project	
	Step B-3 evaluates the project's credibility defines the construction loan terms makes a preliminary commitment for the construction loan
Step G-4*	
	Step B-4 evaluates individual mortgage loan applications makes commitments for mortgage loans
	Step B-5 makes a commitment for the construction loan
	Step B-6 approves the construction loan
Step G-6 issues a building permit	
Step G-7 oversees construction conformity with the building code and the building permit	Step B-7 reviews construction progress and disburses loan funds
	Step B-8 inspects construction upon completion authorizes final payment to the contractor
Step G-8 receives a notice of readiness for occupancy • issues an occupancy permit	Step B-9 approves individual mortgage loans coordinates repayment of the construction loan
Step G-9 establishes postal addresses for the new units • assesses property taxes	

* Activity in Step C-4 relates to both Step C-7 and Step C-10

Commentary to Table 1.0

Purpose

The purpose of this table is to allow the Manual reader to better understand the sequence and interrelationship of the steps described in the course of Manual. Since the whole development process stretches in time and involves collaboration of a number of partners, it is important to be able to see a specific action against the background of those undertaken by other partners within the parallel time period. Within the Table, the interrelationship of specific steps has been shown at the horizontal level causing appearance of a number of blank boxes within a specific vertical column.

At the beginning of each part of the Manual, an excerpt of Table 1.0 was provided. It shows a detailed listing of all the steps within the part, while at the same time identifying steps required of other partners by symbols only.

Structure

Each of the four columns in Table 1.0 corresponds to a specific part of the Manual:

- column 1 corresponds to Part 1: Procedures for the Cooperative Member (symbol M);
- column 2 corresponds to Part 2: Procedures for the Housing Cooperative (symbol C);
- column 3 corresponds to Part 3: Procedures for the Gmina (symbol G);
- column 4 corresponds to Part 4: Procedures for the Bank (symbol B).

Steps listed within a particular column are those discussed in greater detail in the text of the Manual, and identified within that text by reference to the specific Manual Part (e.g. Step G-3 identifies third step in Part 3 (G), step C-7 identifies seventh step in Part 2 (C), etc.

Within each column the steps are numbered in sequence. A Summary of Action Required of Each Partner with the specific step is provided in the Table in order to facilitate understanding of the substantive activity described within each step.

Part 1: Procedures for the Cooperative Members

General Comments

Collaboration of all the parties involved in the housing development process is reflected in their respective actions as individuals, groups of individuals, or organizations. Part 1 of the manual focuses attention on the essential steps a cooperative member must undertake, beginning with the formation of the cooperative and ending with occupancy of their unit. This part describes the activities performed by members as they relate to steps undertaken by the cooperative on behalf of the whole membership (Part 2), to steps undertaken by the gmina (Part 3), and to steps undertaken by financing institutions (Part 4).

Every individual who hopes to become a member of a housing cooperative must be aware that membership in a cooperative requires active participation in decision-making, acceptance of the principle that the majority rules, ability to work in partnership and willingness to compromise with others, and dedication of time and money for the benefit of the whole cooperative.

Potential members should carefully review their personal financial resources and assess their ability to be a responsible participant in the development of a housing project. The combined financial commitment of individual members establishes the basis for the project's success.

The problems encountered in developing a housing project are complex and can be overwhelming to cooperative members who are not professionals in the field. It is advisable to obtain the services of a professional advisor to provide guidance during the process and to ensure that development proceeds on schedule and within budget.

For cooperative members who serve on committees or are elected to the board of directors, adhering to the following general guidelines will help make the housing development process a success:

- *Collect and file all documents in an organized manner.* Whenever possible, obtain written copies of information and important dated and signed documents. Make a record of all decisions and agreements and make written minutes of meetings. Provide a summary memorandum of important information to all parties involved so others can stay informed.
- *Make an effort to become well-informed.* Follow the news about cooperatives and the construction industry by reading newspapers and magazines for information about new laws, financing options, new technologies, and so on. Periodically review copies of special publications to stay up-to-date on relevant information.
- *Pay attention to the organization of the process.* Realize that it will take a substantial amount of personal time to keep up with activities. At the beginning, set up a procedure for following up on decisions that require action. Conduct pre-planned reviews of the costs involved at regular intervals throughout the process. Be aware of potential pitfalls and try to avoid them.

The legal basis for the steps in this part are found in Poland's cooperative law, the governing documents of cooperatives, the building code, banking regulations, and so on.

Table 1.1 on the following page provides a summary of the steps involved in this part and illustrates how the action required of the cooperative members is related to the steps taken by

the other partners.

Table 1.1. / Part I: Procedures for the Cooperative Members

Table 1.1
Summary of Action Required of the Cooperative Members

Cooperative Members (M)	Housing Cooperative (C)	Gmina (G)	Bank (B)
Step M-1 • organize a group to initiate the housing project • define the project's objectives			
		Step G-1	Step B-1
	Step C-1		
	Step C-2	Step G-2	
Step M-2 • compare what they want with what they can afford • analyze their credit abilities	Step C-3		
Step M-3 • review architectural concepts for the project • define individualized budgets	Step C-4		
Step M-4 • select the architectural design • evaluate the cost of development and method of financing	Step C-5		
	Step C-6	Step G-3	
Step M-5 • review the commitment to transfer ownership • apply for mortgage loans	Step C-7	Step G-4*	Step B-2
Step M-6 • make a commitment to participate in the project • make a down payment toward the land purchase price	Step C-8		
	Step C-9		Step B-3
	Step C-10		
	Step C-11		
Step M-7 • participate in selection of the contractor • authorize the cooperative to apply for a construction loan	Step C-12		
			Step B-4
	Step C-13		Step B-5
Step M-8 • sign a commitment to transfer ownership • determine the loan amount needed for construction • make a down payment for construction costs	Step C-14		
			Step B-6
	Step C-15	Step G-6	
Step M-9 • make payments during the construction process	Step C-16	Step G-7	Step B-7
	Step C-17		Step B-8
Step M-10 • take ownership of the property from the cooperative • make final settlement of financial and legal matters • obtain occupancy agreements	Step C-18	Step G-8	Step B-9
		Step G-9	

* Activity in Step G-4 relates to both Step C-7 and Step C-10

Step M-1

- ✓_ Members organize a group to initiate the housing project
- ✓_ Members define the project's objectives

Purpose

Individuals who are potential cooperative members seek partners interested in housing and form a group to take the initiative in establishing the housing cooperative, contacting the gmina and the bank, and obtaining preliminary information about land availability, as well as about financing from the bank.

Commentary

The group of initiators should establish legal status as a housing cooperative in order to become a credible partner when initiating contact with the gmina and with banks that may provide financing. It is advisable to obtain guidance from a specialist in cooperative law during the development of the cooperative's bylaws and other governing documents.

In order to define the project's common objectives, each potential cooperative member should define what type of housing they want and how much money they can spend. An analysis of each individual's personal financial resources should include:

- family income for the last three years,
- monthly income from permanent employment,
- savings deposited in bank accounts,
- invested funds (e.g., stocks and bonds),
- financial obligations, debts, and anticipated expenses,
- potential increase in savings,
- potential increase in income.

Determination of the type of housing desired and the estimated funds available will help the group of initiators plan the number of units to be built and define the number of cooperative members needed. A marketing effort to secure adequate membership in the cooperative should be undertaken as needed.

To be noted

It is important for the group of initiators to meet with the gmina and bank to identify the feasibility criteria for the housing project. The group should also meet with local builders, architects, and construction companies to become familiar with architectural trends, building technologies, and new materials, as well as with the concept of construction financing by contractors. The group of initiators could choose to form a corporation, a homeowners' association, or a cooperative. It is critical, however, to analyze the practical and economic elements of each type of organization.

Activity involved in this step will require that potential members volunteer their time and effort. Professional advice should be sought for specific tasks when members of the group of initiators lack the necessary expertise.

From the beginning, there will be expenses to be paid (e.g., legal fees, operating costs, professional advisory fees). An early commitment to the project is required in order to cover these costs. In order to protect the financial investment of other members, the cooperative should

Step M-1 / Part I: Procedures for the Cooperative Members

set up limited conditions for refunds to those who decide to withdraw. Typically, some funds are not refundable, while others may be refunded when a replacement member joins the cooperative and replenishes all required funds.

References

See Step C-1, Step G-1, and Step B-1 for initial action by the cooperative, the gmina, and the bank.

Step M-2

- ✓_ Members compare what they want with what they can afford
- ✓_ Members analyze their credit abilities

Purpose

By filling out a questionnaire ("Hopes and Affordabilities") each cooperative member can compare the type of housing they want with what they can afford. An analysis of the questionnaire results provides information to the cooperative about architectural styles and price preferences and can be used to develop a preliminary list of options for development and the project participants.

Each member also analyzes his personal finances, comparing the amount of cash they have available and the amount they can afford to borrow to the market price of similar units they intend to build; each member plans their own construction strategy or quits the venture.

Commentary

Each member's personal response to a questionnaire allows them to compare the housing they would like to have with what they can afford. This exercise can help members calculate a size square feet of shelter they can afford based on their income, including borrowed funds.

Each member should carefully consider the sources of funds available to them when planning how they will finance their participation in the project and developing a strategy for the construction process (defining a scope of work).

The gmina provides information that allows definition of the scale of the project and the economical number of participants, including the intended density of the land. This information also affects the project's overall feasibility criteria.

The bank provides a basis for the project's economic criteria evaluation (such as an acceptable price per square meter of space, technology, construction timetable, etc.) and loan conditions, establishing costs related to local market prices and providing financing.

Information from the gmina and bank might indicate a financial need to increase the proposed number of participants. Ongoing recruitment of new members may be required during the project's organization period, as well as during its construction. During the former period, individual members can determine what they can afford and what their preferences are (e.g., unit size, design, location, building materials). For the members joining during the latter period design changes could be limited.

To be noted

In addition to increasing the number of participants, marketing efforts can promote participants' integration by helping individual members develop a common interest in and understanding of the project.

An ongoing feasibility analysis of each member's financial ability should be conducted throughout preparation of the project, until an agreement is signed with the construction

contractor and the bank issues an individual loan commitment. The project's budget should be based on what is financially affordable and should be reflected in the architectural design that is selected, which becomes the standard for soliciting bids for construction services.

References

See Step C-3 for parallel action by the cooperative.

See Document M-2(a) in Appendix 1 as a sample questionnaire of housing preferences.

See Document M-2(b) in Appendix 1 for information about financing options.

Step M-3

- ✓_ Members review architectural concepts for the project
- ✓_ Members define individualized budgets

Purpose

Cooperative members review architectural concepts for the project and its estimated cost in order to select a preferred housing style and decide on a strategy for developing the project. Members develop individualized budgets in support of a mutual strategy for developing the project.

Commentary

Architectural concepts can be presented based on a typical design or on a customized design. Members can also hire an architect or a design firm to develop the architectural concept. This, however, usually increases the overall cost and extends the preliminary period. It is, therefore, better to ask for architectural proposals and to include the design costs into a design-build bid process. Members' preferences can be reflected in their unit's location, layout of the interior space, scope of work and customized interior finishes. The architectural design should be analyzed in terms of estimated costs for materials and construction.

Selection of the contractor and the method of housing development are very important. If a design-build system is chosen, the contractor is entirely responsible for designing the project and for its construction. The contractor can easily adjust the design to meet individual member's needs. If a separate architect and contractor are selected, however, the contractor is not responsible for omissions and mistakes in the architectural design. If such problems occur, they may result in additional work and costs.

Individual members should plan their family budget to include their share of the project's costs. It is important to consider personal spending habits, the possibility of additional savings, and the need to budget for project expenditures for months or years ahead, particularly if a long-term mortgage loan is needed. Members should also schedule their funds to be available at the time that payments are due.

The strategy for developing the project should include financial conditions, a minimal scope of work, and an estimated timetable. If a minimal scope of work is established and different financial options are provided, families of different income levels can participate in the project.

To be noted

Developing a minimal scope of work helps ensure technological continuity during construction and allows scheduling finishing work at a convenient time for an owner. The scope of work must comply with the building code and must be approved by the bank providing financing.

Choosing a contractor who is responsible for both the design and construction of the project (i.e., selecting the design-build system) simplifies the development process and helps avoid omissions and mistakes in the contract documents thus preventing unexpected additional costs.

References

See Step C-4 for parallel action by the cooperative.

See Document M-3 in Appendix 1 for sample sketches of architectural concepts.

Step M-4

- ✓_ Members select the architectural design
- ✓_ Members evaluate the cost of development and method of financing

Purpose

Cooperative members take part in selecting the project's architectural design based on its attractiveness and on the estimated cost of developing the housing project.

Members conduct a further evaluation of their ability to participate financially in the project, analyzing options for saving costs, the terms for construction and mortgage loans, the price of land, and the estimated cost of the project in comparison to the market price for similar units.

Commentary

Selection of the project's architectural design should be made by an affirmative vote of a majority of the members. Designs for single family homes or low-rise multi-family dwellings provide more options for members to customize their unit according to their financial abilities and functional preferences.

Cost-effective housing development requires a thorough analysis of all options, including the architectural design, available technology and building materials, the scope of work, the construction season and its timetable, the terms and conditions of the construction agreement, the loans, the project's "soft costs", the number of project participants, and the terms for the transfer of ownership.

As more estimated cost factors become known, members can continue to evaluate their ability to participate financially in the project.

To be noted

Until an agreement is signed with the contractor, all organizational steps help provide information for the ongoing process of defining the estimated cost of the project.

Only after signing the agreement can the final cost of the project be given within a 10% margin.

During construction, all organizational steps help provide information for the ongoing process of controlling costs therefore preventing their increase.

To prevent any delay in development of the project, all organizational steps related to the formal process of dealing with the gmina, the court, and the bank should be well coordinated and scheduled ahead of the deadlines. Court fees will be related to the value of the unit at completion.

Administrative costs will be approximately 3% of the unit's value. The bank's fees will depend on the loan amount, and could equal to 1% of the loan.

References

See Step C-5 for parallel action by the cooperative.

Step M-5

- ✓_ Members review the commitment to transfer ownership
- ✓_ Members apply for mortgage loans

Purpose

Each member reviews the commitment to transfer ownership, a contract prepared by the cooperative for their unit and tailored to their financial ability. The terms for the sale of the unit are determined by the construction loan terms, the cash deposited by the member, the amount of financing required, and the payments required during construction.

Members apply for mortgage loans and have their applications reviewed by the bank, which verifies their eligibility for financing.

Commentary

During the preliminary evaluation of the project's financial feasibility, the bank's verification of the member's financial credibility and eligibility for a mortgage loan ensures that the member can afford to take part in development of the project.

A disapproval by the bank requires further verification of the member's financial abilities and a re-application for the loan if the reason for objections has been removed, e.g. family income increased, additional funds made available, required documents submitted, etc. With disapproval by the bank, the commitment to transfer ownership is suspended until the member proves that they can afford to participate in the project. The cooperative may offer the commitment of ownership transfer to any new qualified member or candidate. The disapproved should withdraw from the project to prevent any further expenses for himself or other members. The cooperative will withdraw its commitment to sell the unit if the bank does not approve the member's eligibility for a mortgage loan.

Members who want to borrow money to help purchase their unit must apply for a review of their credit history and file required documents with the bank. A personal income and expense statement is typically required. A copy of the commitment to transfer ownership should be included with the mortgage application made to the bank.

To be noted

If the member's financial ability to participate in the project is questionable, the cooperative may hold the deposit made by the member for the purchase of land until a new member is accepted as a replacement.

The commitment to transfer ownership should be prepared by a legal expert and must be certified under the procedures of the Notarial Act.

References

See Step C-7, Step G-4, and Step B-2 for parallel action by the cooperative, the gmina, and the bank.

Step M-6

- ✓_ Members make a commitment to participate in the project
- ✓_ Members make a down payment toward the land purchase price

Purpose

Each member signs an agreement with the cooperative to confirm their commitment to participate in the project, which specifies mutual responsibilities and duties.

Each member makes a cash down payment equal to their share of the land purchase price.

Commentary

The commitment document signed by the member serves as an authorization for the cooperative to continue development of the project in the member's name and first of all to purchase the land. The document obligates the member to their financial participation until the commitment to transfer ownership is signed with the cooperative. A non-refundable deposit is paid to the cooperative as a guarantee of the member's seriousness; it often amounts to 1% or 2% of the value of the unit.

The down payment for the purchase of the land is usually the member's first major financial cost. It demonstrates the seriousness of the member's commitment to the project and may be forfeited if the member withdraws, although such conditions must be clearly established in advance. The amount of down payment is often based on estimated cost of land (a final cost subject to bid results) and can also provide for the other estimated expenses such as notarial and court fees, as well as geodesic services (in preparation for establishing of Perpetual Books for the property). The payments required by the cooperative should reflect all financial commitments related to procedures in land purchase, bidding for construction, signing the ownership transfer commitment and agreement with the contractor.

To be noted

It is important for cooperative members to have control over the budget for the project's development expenses so that their costs remain affordable. The democratic structure of the cooperative provides mechanisms for members to vote on critical issues such as the budget.

Although the land is purchased with the members' funds, the cooperative remains as the owner of the land throughout the construction process in accordance with the ownership transfer agreement and the cooperative law as well as other technological and financial requirements of the process. The safest

option is to have the ownership transferred to the members after completion of the contracted work. Unfortunately, it is not the most cost effective solution for the members. Therefore, the ownership transfer decision should consider all parties' interest - the bank, the contractor, the cooperative and the member.

References

See Step C-8 and Step G-5 for parallel action by the cooperative and the gmina.

Step M-7

- ✓_Members participate in selection of the contractor
- ✓_Members authorize the cooperative to apply for a construction loan

Purpose

Members participate in construction bidding process and selection of the contractor (or contractors, if technologically feasible) making their preference known by a vote on the subject.

As required by the terms of the agreement between the cooperative and the contractor, cooperative members authorize the cooperative to apply on their behalf for a construction loan based on the estimated cost of the project.

Commentary

Cooperative members should personally evaluate the candidates for contractor and review the bids that are submitted. It is important to have democratic participation in this process. Final selection of the contractor can be made by a vote of all the members or by a vote of members of a designated selection committee.

If the project involves single-family row-type homes, more than one contractor can be selected. Several sections of different house designs can be built to comply with the approved site development plan. If the project involves multi-family dwellings, one general contractor is typically selected. The board of directors, if authorized by the cooperative members, makes the decision to award the contract.

The members have the right to negotiate with the contractor to define the scope of work (above required minimum) according to their design preferences and financial capability as long as customized options stay within overall standards.

Negotiations conclude with cost calculations, which should confirm the affordable cost declared by the members. After cost calculation, the cooperative signs the commitment to transfer ownership with individual members. At this point, the members may authorize the cooperative to apply for a construction loan, while the members make a commitment to repay their share of the loan. The contract between the cooperative and the contractor is confirmed after the cooperative signs a commitment to transfer ownership with individual members.

To be noted

Members should determine a method of choosing the contractor. If the project includes plans for single-family houses or row-type houses, several contractors may be involved in construction. Each member may select their own contractor for their own house, or a group of members select their own contractor for their multi-unit section of houses.

If the decision to select the contractor is based on a vote of all the members, it is suggested that three-fourths of the members should be required to vote in favor.

Members who disagree with the selection of the contractor may withdraw, but should be aware of the possibility of personal financial loss if the amount refunded to them is limited because of the progress of development plans.

The cooperative's application for a construction loan must be revised if the amount authorized by the members is different than the amount resulting from the agreement with the contractor.

References

See Step C-12 for parallel action by the cooperative.

Step M-8

- ✓_ Members sign a commitment to transfer ownership
- ✓_ Members determine the loan amount needed for construction
- ✓_ Members make a down payment for construction costs

Purpose

Each cooperative member signs a commitment with the cooperative to transfer ownership, which is a contract in which the cooperative promises to deliver a housing unit built within a defined scope of work at a set price and transfer ownership of the property to the member.

Determination of the loan amount needed for construction is based on the negotiated agreement with the contractor and an analysis of all contracts between the cooperative and the members. It includes a review of the amount of funds needed for construction, the payment schedule, the construction schedule, and individual members' mortgage loan applications.

Individual members make a cash down payment toward construction costs. This demonstrates their commitment to the project and provides a basis for the cooperative to sign an agreement with the contractor and to apply for a construction loan to cover the remaining costs.

Commentary

Members establish the conditions for individually negotiating the scope of work. For members who pay cash for their unit, the minimum scope of finishes is established by the building code. For those who obtain a mortgage loan to purchase their unit, the scope of finishes is set by the building code and the bank.

The commitment to transfer ownership between the cooperative and each member ~~authorizes~~ the cooperative to sign an agreement with the contractor and apply for a construction loan. Members should review the documents and the General Assembly should formally approve them.

The commitment to transfer ownership is developed simultaneously with the agreement between the cooperative and the contractor, but the contract with the members must be signed first. The two documents contain similar and mutually supportive statements.

Members who pay cash for their unit can negotiate a minimum ~~down~~ payment with the contractor. For those who obtain a mortgage loan, the bank determines the amount of the down payment. Generally, the amount equals 25% of the value of the unit.

To be noted

The members' participation in the process of development is most important during the selection of the contractor and negotiation of the financing and scope of work for construction.

The commitment to transfer ownership obligates individual members to make timely payments as construction proceeds. A well-planned family budget is necessary. Any delay in payments or in formal action, such as delivering documents or making decisions, may cause the cooperative to break the contract with the member, for which the member is legally and financially liable.

Signing or amending the commitment to transfer ownership should be done following the procedures of the Notarial Act. The contractor or the bank should approve any amendments that might affect them.

The commitment to transfer ownership is based on the estimated cost of the project, although it may include a set price for construction plus reserve funds for additional expenses. It should be noted that unpredictable circumstances may affect the contractually established construction cost. Such increase in cost is usually acceptable within 10% of the contract value. Final settlement of outstanding costs takes place after construction is completed.

References

See Step C-14 and Step B-5 for parallel action by the cooperative and the bank.
See Document M-8 in Appendix 1 as a sample commitment to transfer ownership.

Step M-9

✓_ Members make payments during the construction process

Purpose

According to the commitment to transfer ownership, members make payments during the construction process to provide a steady flow of cash for the purchase of materials and payment of laborers.

Commentary

Members must conform to the payment schedule in their contract with the cooperative, which was developed to coincide with the construction schedule.
The cooperative should enforce deadlines for payments and impose penalties for late payments or defaults.

To be noted

Housing expenses may be deducted from individual adjusted gross income tax for a limited time. Such deductions are no longer permitted after the unit is formally assigned by the housing cooperative to a cooperative member, which may occur one month before scheduled occupancy of the unit.

All construction-related purchases or services obtained by individual members should be made through the cooperative from vendors who pay value-added taxes so the expenses can be deducted.

References

See Step C-16, Step G-7, and Step B-7 for parallel action by the cooperative, the gmina, and the bank.

Step M-10

- ✓_ Members take ownership of the property from the cooperative
- ✓_ Members make final settlement of financial and legal matters
- ✓_ Members obtain occupancy agreements

Purpose

The transfer of the property's ownership is realized in a form of the Notarial Act on a date predetermined by the agreement. Typically, it occurs near final completion of construction work.

The members settle all financial and legal matters with the cooperative, including direct and indirect project costs and legal obligations related to ownership documents.

The cooperative provides each member with a statement of financial and legal settlement. The cooperative also provides an occupancy agreement and a key to the member's unit.

Commentary

The transfer of ownership of property, including both the housing unit and land, is legalized under the procedures of the Notarial Act. A notary ~~is~~ prepares the papers necessary to register the transfer of ownership with the court to result in appropriate changes in Deed Books. The member pays all related fees. The Notarial Act describes the property, defines its size and value, and specifies the mutual obligations between the cooperative and the member. It is a legal document that can be used to support a mortgage loan application, tax deductions and benefits from PKO bank saving books. The property ownership transfer can be realized at any time during construction, unless the cooperative statutes determine otherwise. Such a decision needs to consider the terms of construction, financing, as well as technical and technological conditions.

The Notary Act and extract from Deed Books are necessary to receive a mortgage loan which provides funds to make the final payment to the contractor or to repay the construction loan. While the Notary Act consumes very little time, it is the extract from Perpetual Books (for the owner and the bank) and loan approval procedures which are new and not adapted to market economy principles. Delays, caused by notary, court and bank, might result in penalties, and thus an increase in construction cost.

After construction is completed and the work is approved by the cooperative and accepted by the members, the cooperative settles all outstanding invoices with the contractor within the time specified in the construction contract, typically one week. The members should be notified about the date of final settlement in case they need to make additional payments.

The financial settlement includes all construction costs, including any additional costs for work completed on behalf of all members or in response to individual agreements. It also includes payment for related expenses, such as administrative and legal fees, marketing costs, insurance, permits, special services and so on. (The financial settlement includes a review of several documents, including the cooperative's contracts with the contractor and with the members, the scope of work, the records of technical inspections, the contractor's invoices and the cooperative's payments, the cooperative's accounting books, and so on).

Final settlement of financial and legal matters often occurs after the cooperative provides each member with an occupancy agreement and a key to their unit. The new owner moves into their home and begins to participate in the management and operation of their cooperative community.

To be noted

Before applying for a mortgage loan, be sure to allow enough time for the legal procedures required to obtain proof of ownership. If these procedures are not conducted in a timely manner, financing for the project may be jeopardized. The members are responsible for covering any increase in construction costs that result because of delays in bank or court procedures related to obtaining a mortgage loan.

The cooperative should provide the member with complete documentation, including the project's technical documents, contractor's warranties, legal documents, and a record of charges to and payments by the member. The cooperative should also refund any overpayment made by the member and provide a formal settlement statement, which is legally required to validate that the member's ownership is free of any obligations.

The project's technical documents should incorporate all changes to the original documents that involve physical modifications in the construction of the project. The contractor's fee includes this additional service.

The cooperative should provide an affidavit to each member stating the total amount of the member's investment. The affidavit is required to allow the member to make deductions from their personal income tax.

References

See Step C-18, Step G-8, and Step B-9 for parallel action by the cooperative, the gmina, and the bank.

See Document M-10 in Appendix 1 as a sample of an approved transfer of property ownership.

Part 2: Procedures for the Housing Cooperative

General Comments

Part 2 provides guidance about the actions undertaken by a housing cooperative during the development process in relation to the other parties involved: the cooperative members (Part 1), the gmina (Part 3), and the bank engaged in financing the project (Part 4).

For every newly established, democratically functioning housing cooperative that attempts to build its first housing project, the most important aspect is having control over the process. Several parties are involved: the members of the cooperative, the board of directors and supporting staff, and a technical advisor.

Each cooperative member is financially responsible for a share of the project and has a right to vote at critical points in the decision-making process. This means that each member must have a clear understanding of both his rights and his obligations and their impact on the whole project if the development process is to be a success. The practical implementation of rights and obligations may sometimes be difficult. Members may focus on their individual situation while showing a lack of concern about whether their actions benefit or harm the cooperative membership as a whole. They may not attend meetings, may fail to participate in decision-making procedures, or may not respond to deadlines.

It is essential for the cooperative to develop systems and procedures that enhance understanding of the interdependence of all the parties involved in the development process. If necessary, precise timetables should be developed, deadlines established, and penalties charged to promote prompt action at steps that are of greatest significance for the project. Particular attention should be paid to each member's financial responsibility for a share of the project and the financial risks involved if a member withdraws from the project, defaults on payments, and so on. For the process to be successful, it is important for each member to have a clear understanding of their obligations as well as their rights.

The elected board of directors and the staff they hire are responsible for managing the development project on behalf of the entire membership, selecting the professionals involved in the process (e.g., the architect, the contractor, the construction administrator), making important technical decisions, and controlling the project's finances. Because the cooperative members elected to serve on the board of directors are volunteers, they rely on the expertise of the supporting staff. However, difficulties may arise if some staff members who appear to be experienced lack the organizational and managerial skills needed for this new approach to housing development. For the process to be successful, it is important for the board of directors and the supporting staff to be flexible and open to new ways of working.

A technical advisor hired by the board of directors can help with any tasks that others are not familiar with. Such tasks might include evaluating technical information; providing guidance through the formal contacts with the gmina; organizing the steps of the development process; preparing information packages for making proposals, inviting bids, and estimating costs; negotiating contracts with the architect, contractors, construction administrator, and other hired personnel; and applying for bank loans. An advisor can be hired for a specific task, on a part-time basis, or at any time assistance is needed. Unfortunately, the valuable help provided by a technical advisor is often underestimated. For the development process to be successful, it is advisable to hire a technical advisor early.

Part 2: Procedure for the Housing Cooperative

Some important legal acts applicable to this part include:

- Decree No. 268 of the Council of Ministers dated 27 December 1982 (Dz. U. 83 No. 4, Item 24, with later amendments) on housing financing,
- Changes to Conditions for the Housing Preparation Process in 1991-1995, dated 4 October 1991 (Dz. U. 91 No.103, Item 446),
- Housing Unit Ownership Act, dated 24 June 1994 (Dz.U. 94 No. 85, Item 388),
- Cooperative Law , dated 16 September 1982 (Dz. U. 82 No.30, Item 210)
- Changes to Cooperative Law , dated 7 July 1994 (Dz. U. 94 No.90, Item 419)

Table 1.2 on the following pages provides a summary of the steps involved in this part and illustrates how the action required of the housing cooperative is related to the steps taken by the other partners.

Table 1.2
Summary of Action Required of the Housing Cooperative

Cooperative Member (M)	Housing Cooperative (C)	Gmina (G)	Bank (B)
Step M-1			
		Step G-1	Step B-1
	Step C-1 <ul style="list-style-type: none"> Cooperative is legally established Cooperative considers pre-conditions for development of the project 		
	Step C-2 <ul style="list-style-type: none"> Cooperative selects a site for the project Cooperative reviews the terms for development of the site defined by zoning Cooperative inquires about land acquisition procedures and signs a agreement with the gmina 	Step G-2	
Step M-2	Step C-3 <ul style="list-style-type: none"> Cooperative conducts a market analysis Cooperative determines how much each member can afford Cooperative develops a marketing strategy 		
Step M-3	Step C-4 <ul style="list-style-type: none"> Cooperative analyzes financing options Cooperative develops a preliminary budget 		
Step M-4	Step C-5 <ul style="list-style-type: none"> Cooperative selects an architectural and site development concept Cooperative develops a formal budget 		
	Step C-6 <ul style="list-style-type: none"> Cooperative applies to the gmina for site development terms Cooperative develops a preliminary feasibility plan for the project Cooperative makes an offer to purchase the land 	Step G-3	
Step M-5	Step C-7 <ul style="list-style-type: none"> Cooperative reviews the site development plan Cooperative develops a financial and technical feasibility plan Cooperative prepares commitments to transfer ownership 	Step G-4*	Step B-2
Step M-6	Step C-8 <ul style="list-style-type: none"> Cooperative verifies members' financial credibility Cooperative acquires the land for the project 	Step G-5	
	Step C-9 <ul style="list-style-type: none"> Cooperative applies for a construction loan 		Step B-3
	Step C-10 <ul style="list-style-type: none"> Cooperative obtains approvals for the terms of development Cooperative completes the site development plan 	Step G-4*	
	Step C-11 <ul style="list-style-type: none"> Cooperative prepares the invitation to bid for construction services 		
Step M-7	Step C-12 <ul style="list-style-type: none"> Cooperative solicits bids for construction services 		
			Step B-4
	Step C-13 <ul style="list-style-type: none"> Cooperative negotiates an agreement with the contractor Cooperative coordinates the construction and payment schedules 		Step B-5

Step M-8	Step C-14 <ul style="list-style-type: none"> Cooperative signs an agreement with the contractor 		
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Table 1.2 / Part 2: Procedures for the Housing Cooperative

Table 1.2 (continued)
Summary of Action Required of the Housing Cooperative

Cooperative Members (M)	Housing Cooperative (C)	Gmina (G)	Bank (B)
			Step B-6
	Step C-15 <ul style="list-style-type: none"> Cooperative obtains a building permit 	Step G-6	
Step M-9	Step C-16 <ul style="list-style-type: none"> Cooperative manages the construction period for the project 	Step G-7	Step B-7
	Step C-17 <ul style="list-style-type: none"> Cooperative accepts final completion of the project 		Step B-8
Step M-10	Step C-18 <ul style="list-style-type: none"> Cooperative authorizes occupancy of the units Cooperative transfers ownership of the property 	Step G-8	Step B-9
		Step G-9	

* Activity in Step G-4 relates to both Step C-7 and Step C-10

Step C-1

- ✓_Cooperative is legally established
- ✓_Cooperative considers pre-conditions for development of the project

Purpose

The steps involved in legal establishment of a housing cooperative need to be identified at the beginning of the process. These include forming a group of initiators, identifying and establishing the legal structure of the cooperative, establishing a relationship with the gmina, and developing procedures for accepting cooperative members.

Development of the project involves technical, legal, and financial issues. From the beginning, it is important to consider a preferred location, an architectural concept, an affordable price, and potential implementation procedures.

Commentary

It takes time and effort before a group of individuals who want to improve their families' living conditions can achieve their goal. During the process of initiating the project, before the cooperative is formally organized and operating, the following steps should be taken:

- Individuals who are interested in becoming cooperative members should form a group of initiators and develop a plan of action;
 - The group of initiators should establish a relationship with the gmina.
- The group of initiators should identify a legal structure for the housing cooperative, legally establish it and register in court.
- The housing cooperative should determine its administrative and organizational procedures, as well as an implementation of development plan.

At this stage, the four basic issues involved in development of the project should be considered:

- technical issues (e.g., the type of housing, technology and function of floor plan, technical infrastructure design, energy-saving and ecological aspects of materials, etc.)
- legal issues (e.g. selection of statutes, registration in court, democratic procedures of self-government, defining the decision making process by the members, rules and consequences of land purchase decision, legal procedures related to bank credits);
 - administrative and organizational issues (e.g. self-governing abilities, collaboration and identifying and establishing the legal structure of the cooperative management over the entrusted funds);
- financial issues (e.g. administration of the members' shares and deposits, determination of project's "optimal" cost that minimizes credit risk and protects overall development feasibility).

To be noted

Under current cooperative law, a minimum of 10 people is required to form a housing cooperative. It is advisable to obtain legal assistance in developing the cooperative's by-laws and electing officers prior to registering the cooperative in court.

Practical financial arrangements are needed from the beginning to cover the costs involved in initiating the project. A temporary fund can be set up, with monthly contributions from participants based on a percentage of the estimated cost of their unit support the advancement of the development.

References

See Step M-1, Step G-1, and Step B-1 for initial action by the members, the gmina, and the bank.

See Document C-1(a) in Appendix 2 for information about the process of establishing a housing cooperative.

See Document C-1(b) in Appendix 2 as a sample protocol to establish a housing cooperative.

See Document C-1(c) in Appendix 2 as a sample resolution to approve the cooperative bylaws.

See Document C-1(d) in Appendix 2 as sample by-laws of a cooperative.

See Document C-1(e) in Appendix 2 as a sample motion to register a new cooperative.

See Document C-1(f) in Appendix 2 as a sample cooperative membership application and acceptance.

Step C-2

- ✓_Cooperative selects a site for the project
- ✓_Cooperative reviews the terms for development of the site defined by the local zoning
- ✓_Cooperative inquires about land acquisition procedures and signs a mutual agreement with the gmina

Purpose

After identifying a preferred district in the gmina, it is time to select a specific site to be acquired for the project. The cooperative may need to obtain information about the land and its owner from various gmina offices, courts, or other authorities. If the land is communally owned, a decree from the gmina may be required to purchase or lease it.

After identifying a potential site for the project, a proposal for development of the site should also be assessed. The proposal should determine the suitability of the site in terms of the number of units that can be built, the technical infrastructure that will be needed, and so on.

If the site selected is zoned for housing, the gmina may offer a site development proposal that the gmina has already prepared for all potential developers.

Commentary

During the site selection process, it is important to consider the availability of the land, the suitability of the land, and the cost of acquiring the land.

When assessing the availability of the land, it is necessary to determine the current ownership of the land and whether the property is privately owned, state owned, or communally owned. Procedures to acquire the land may vary depending on who owns the land. Generally, state or municipal land is subject to a formal bid, negotiations or direct sale.

Land owned by the private or legal entity can be sold directly.

When reviewing the suitability of the land, it is necessary to evaluate several factors.

Verify that the site is large enough for the project. Obtain and review zoning information documents and identify any restrictions set by the gmina or by national law. Analyze existing technical conditions, including the soil capacity, the water table, the availability of technical infrastructure, and any landscaping or environmental concerns. Determine whether there are links to social and economic resources in the area.

When evaluating the cost of acquiring the land, consider how various factors might affect the price. Consider the current ownership, whether to buy or lease the land, the procedure for acquiring the land, whether the land is already zoned for housing, the status of technical infrastructure, and so on. In all of these matters, a professional advisor may be particularly helpful.

The cooperative may sign an agreement with the gmina to collaborate throughout the development of the project. A mutual commitment agreement between the gmina and the cooperative makes the project more credible during marketing efforts and gives a more secure basis for a feasibility plan. If a site development proposal prepared by the gmina is available and acceptable, the cooperative should adapt it, thus saving effort and time.

To be noted

Verify that there are no legal impediments, such as court proceedings or other claims, to prevent the current owner from selling the land. If impediments exist, it may be preferable and less time consuming to select another site.

Confirm that the site is approved for housing construction or whether it must be rezoned. The gmina can verify in writing the zoning status of any parcel of land in the gmina's jurisdiction.

Zoning information documents explain the technical criteria required for development of the site. Such documents are valid for six months and can be provided to many potential developers simultaneously.

Ownership of the land is required before applying for a bank loan or building permit, so be sure to allow enough time for the land acquisition process.

Because the amount of land available for housing development is limited, virtually every parcel that is large enough and affordably priced is quickly sold. Do not delay making a decision.

References

See Step G-2 for parallel action by the gmina.

See also Part 3 - Gmina, with respect to local housing policy and their implications.

Step C-3

- ✓_Cooperative conducts a market analysis
- ✓_Cooperative determines how much each member can afford
- ✓_Cooperative develops a marketing strategy

Purpose

A market analysis can provide information on the demand for housing and can help the cooperative determine the likelihood of the project feasibility and selling the units quickly thus diminishing credit risk to the cooperative and the members. The data must be interpreted accurately; false assumptions can lead to serious financial or organizational problems causing a delay or failure of the project at different stages of development. It is critical for the project to be affordable to the largest group of cooperative members, as what is considered affordable may vary from group to group. It is therefore safer for the project's design when it is made affordable to a broad spectrum of buyers from the local community. The design and cost of the project must be addressed to each individual cooperative members' taste and purse determined individually for each of them; otherwise the project's feasibility might be jeopardized.

At this stage the estimated unit cost should be made affordable for the most of the cooperative members thus decreasing financial risk of the project. The correctly estimated unit cost will also help to find a replacement if some members withdraw.

One way to learn what housing style and what price range the majority of cooperative members want is to conduct a survey. A marketing effort to secure adequate participation in the project should be devised and implemented throughout the entire development.

Commentary

Several issues need to be considered in conducting an analysis of the housing market. It is important to gather data about local and regional economic conditions (e.g., unemployment rates, growth forecasts for various industries), income sources, average household income, existing housing stock, local housing needs, construction trends (e.g., styles, sizes, and prices of new homes), a profile of potential members, and the local history of housing cooperatives. This general information must be supported by specific information about the household income of potential members, whether they are likely to qualify for mortgage loans, and an estimate of the percentage of such families in the community. Research on the availability of contractors and current construction costs should be included as well.

In determining an affordable cost for the project, review the financing options available and the financing preferences and financial soundness of the cooperative members. The basic sources of financing for the project will be cash provided by cooperative members (including funds obtained through individual mortgage loans obtained from a bank), funds provided under a construction loan obtained by the cooperative from a bank, and funds loaned by the contractor.

Be aware that some items cannot be financed through a standard construction loan (e.g., purchase of the land, off-site infrastructure, commercial spaces). Also determine the amount of cash down payment required by a bank before approval of a construction loan.

It is important to verify each member's financial potential, including their monthly income and expenses, the amount of cash on hand, and their capability of obtaining a mortgage loan.

This may not be easy to do, but it is precisely why the cooperative must set clear rules about members' financial obligations: to protect the investment of other participants if some members default on their payments or withdraw from the project.

A marketing strategy is closely related to a market analysis. Marketing the project can help attract additional participants. A variety of options are available and range from free publicity to costly advertising. Be sure to develop a marketing strategy and a budget to support the expenses involved.

To be noted

It is vital not to underestimate the financial risk involved in undertaking a project. To avoid jeopardizing the project's financial plans, the cooperative must establish rules for those who want to withdraw from the project as well as procedures and limitations on refunding payments that have been made. Cooperative members must be clearly informed about the rules and the possible risk to their personal investment and the project as a whole.

References

See Step M-2 for parallel action by the members.

See Document C-3(a) in Appendix 2 for information on marketing considerations.

See Document C-3(b) in Appendix 2 for information on addressing financial risks.

Step C-4

- ✓_Cooperative analyzes financing options
- ✓_Cooperative develops a preliminary budget

Purpose

In order to analyze options for financing the project, the cooperative analyzes information about the members' potential financial contributions and the cooperative's ability to obtain a construction loan. Based on this information, the first attempt is made to estimate the preliminary budget for the project, including all foreseeable expenses.

As a result of such analysis, supplemented by the bank's loaning terms as well as technical criteria for the units intended for the bank's financing, a preliminary budget can be developed for the architectural concept under consideration. This analysis, including design, technology and cost factors, done in accordance with the bank criteria (energy saving, durability, maximum living space, construction cycle, healthy environment) as well as the amount of available credit may require professional assistance. This helps define the architectural concept in more detail and contributes to the development of the project's estimated cost.

Commentary

Professional architectural services are needed to develop the architectural concept in detail, to provide information necessary to analyze the financing options available, and to develop the project's estimated cost and preliminary budget.

The estimated cost of the project can be developed using known data and costs for comparable construction in the area. In developing the preliminary budget, include direct and indirect project costs as well as provisions for unanticipated expenses. Estimate the following:

- general construction costs, including an additional 10% for contingencies
- land price and legal fees
- fees for professional services (legal, architectural, cost calculation, marketing, bookkeeping)
- miscellaneous costs for surveys, tests, permits, sales taxes
- required participation fees for connection to communal infrastructure
- indirect costs such as wages, office rent and utilities, postage, telephone, legal fees, marketing costs
- loan fees
- interests on construction loan when it has to be paid during construction.

To be noted

Each member's financial potential can be verified by a simple questionnaire that obtains information about the desirable size of their unit, their family income, the amount of cash available, and their interest in a mortgage loan. Such evaluation must be done based on the documented information. Until contracts are signed with the contractor and with the members, project costs need to be reviewed periodically to identify inflation-related price increases for materials or labor.

Helpful information can be found in a monthly publication produced by the national statistical office on the average cost of materials and services and in the local press.

Be aware of possible limitations or restrictions on development related to conditions on surrounding properties (access for transport, power and water supply, fencing, noise and other difficulties) and necessity of obtaining agreements with neighbors.

References

See Step M-3 for parallel action by the members.

See Document C-4 in Appendix 2 for information about employing professional services.

Step C-5

- ✓_Cooperative selects an architectural and site development concept
- ✓_Cooperative develops a formal budget

Purpose

Providing the cooperative has no intention of utilizing standard designs or published drawings, catalogues, brochures, etc. presenting architectural concepts, it should have a professional advisor prepare one or several design schemes. After evaluation of several options, the cooperative should select a concept and give directions for an architectural design to be developed.

Development of a formal budget must be based on realistic data and information. Further development of the project's design and information such as comparable construction prices, the market value of the land, and an identification of cost control measures and savings strategies will contribute to data that will be used in the project's formal budget.

Commentary

The cooperative may calculate the estimated cost of an approved architectural concept. The total estimated cost of a standard unit's construction, preparation and construction and administration costs, when applying the percentage indicators, may be assumed as follows :

- land purchase - no more than 6% of total construction costs;
- infrastructure connections - no more than 6% of total constructions costs;
- administration, advisors and consultation - no more than 4% of total construction cost.

It may be helpful to organize a conference to learn about various technologies available for construction. A conference can provide an opportunity for invited contractors, engineers, material manufacturers, and other professionals in the field to supply valuable information about potential structural solutions, materials, technologies, infrastructure systems, costs, and so on.

After reviewing and approving the preferred options, the cooperative should direct the architect to incorporate the requested technical solutions and relevant cost data into the project's architectural design. Any proposed cost-cutting measures, such as reducing the scope of work or substituting materials, should be decided upon before starting construction in order to achieve maximum savings. When evaluating various architectural concepts, the cooperative should be realistic about what the members can afford.

To be noted

The estimated cost of the project is related to plans for financing the project. In multi-family buildings and in buildings occupied by both families and businesses, members of the cooperative can vote to establish the price for one square meter of space. The price might be the same for all units or it might be higher for commercial spaces and garages. Another alternative is to establish different prices based on the unit's location in a multi-story building.

Typically, attic or ground-floor space is the least expensive and first- and second-floor space is the most expensive.

It is advisable to establish deadlines and strict rules for members who wish to make changes to the architectural design of their unit.

At this stage, it is appropriate to use a schematic drawing of the project to make a preliminary assignment of units to individual members.

References

See Step M-4 for parallel action by the members.

Step C-6

- ✓_Cooperative applies to the gmina for site development terms
- ✓_Cooperative develops a preliminary feasibility plan for the project
- ✓_Cooperative makes an offer to purchase the land

Purpose

In order to establish a project site and terms for development of the site, the cooperative is required to submit an application for a site indication to the gmina. The application must provide information on the site borders, detailed technical data on the project (type of housing, assumed number of inhabitants, etc.) and technical infrastructure information (demand for water, gas, power, sanitary and storm sewage systems, etc.)

At this stage, the cooperative should review all information about the project and begin developing a preliminary feasibility plan, including the technical, legal, and financial aspects of development.

The cooperative should make an offer to purchase the land. It is often required ~~to bid on~~ communally-owned land, however, for a cooperative complying to specific conditions there is an option to purchase such land without bidding.

Commentary

A preliminary feasibility plan and an offer to purchase the land may be included with the application for site development terms. The project's feasibility plan should include:

- the architectural concept
 - the budget data showing various costs: a land purchase price, construction of units and technical infrastructure connections, project preparation and administration, site development
- the basis of budget development
- the project preparation and development schedule
- the preliminary construction schedule
- the estimated cash flow
- the results of marketing efforts, including a list of potential members
- the project's financing plan and schedule.

To be noted

In order to prepare the application for site development terms, it is important to know the conditions for technical infrastructure related to the intended development.

References

See Step G-3 for parallel action by the gmina.

See Document C-6 in Appendix 2 as a sample resolution authorizing the cooperative to acquire land.

Step C-7

- ✓_Cooperative reviews the site development plan
- ✓_ Cooperative develops a financial and technical feasibility plan
- ✓_Cooperative prepares commitments to transfer ownership

Purpose

The cooperative reviews the site development plan in order to evaluate the estimated cost of the project based on the architectural design and the proposed technical infrastructure. The cooperative may also employ an expert to do value-engineering.

After obtaining information about the site, the gmina's decision on site development terms, acceptance of value-engineering, preparing preliminary construction and cash flow schedules as well as obtaining owner's commitment to sell the land, the cooperative develops a comprehensive feasibility plan for the project.

The cooperative prepares a commitment to transfer ownership for each member tailored to their individual circumstances. The cooperative determines conditions, procedures and schedule of the transfers.

Commentary

After evaluating the site development plan, and signing the land purchase commitment, the cooperative is in a position to meet with the bank to discuss plans for construction and mortgage loans.

The cooperative should develop a feasibility plan that is reviewed by the bank. The bank may determine chances for the construction loan to the cooperative.

The financial plan for the project should address the overall cost of the project, including both indirect and direct expenses. It should also include a cashflow timetable, specifying the schedule for receipt of construction loan funds and for cash payments. In developing the overall cost of the project, the following indirect expenses should be included: market analysis costs, legal fees, architectural and engineering fees, bank charges, loan fees, notary and court fees, marketing costs, appraisal fees, administrative expenses, construction administration costs, taxes, charges for an environmental analysis, and a reserve fund for contingencies (up to 10% of the total of indirect costs). Direct project expenses include the cost of the land, the construction contractor's fees, and a reserve fund for construction contingencies (up to 10% of the construction contract). The bank may require individual members to substantiate financing for any self-help effort, e.g. interior finishes.

A feasibility plan should also include a proposal for a commitment to transfer ownership between the cooperative and each member as well as information about members' individual financing plans (i.e., whether they will pay cash or obtain a mortgage loan). In addition, the cooperative should supply all members with all pertinent rules and regulations as well as an estimate, if possible, of the future cost of managing and maintaining the property.

The technical aspect of the feasibility plan should address the following issues: the phases of development, the method for soliciting bids from contractors (e.g., open bidding or bidding by invitation only), the method of construction management (e.g., hiring a contractor to manage construction only or hiring a contractor to design and build the project), and the proposal for construction administration.

To be noted

Before developing the feasibility plan, it can be helpful to request and review construction proposals submitted on a voluntary, non-binding basis. Such a review can provide a better idea of potential construction costs, a possible construction schedule, and technologies and materials that could be used. The commitment to transfer ownership between the cooperative and individual members requires a financial commitment from each member according to a payment schedule. The first payment is 25% to 30% of the total cost of the unit for average income family. However, the cash deposits should be intended at around 40% of total cost for lower income families.

References

See Step M-5, Step G-4, and Step B-2 for parallel action by the members, the gmina, and the bank.
See Document C-7(a) in Appendix 2 for information about developing a feasibility plan.
See Document C-7(b) in Appendix 2 as a sample resolution authorizing the cooperative to transfer ownership of completed units to cooperative members.

Step C-8

- ✓_ Cooperative verifies members' financial credibility
- ✓_ Cooperative acquires the land for the project

Purpose

Before proceeding with plans to purchase the land, the cooperative verifies members' financial commitment to the project by checking to see who has deposited the required down payment on schedule.

With funds collected from the members, the cooperative enters into the process of acquiring the land designated for the project and making further preparations for construction.

Commentary

The cooperative member's credibility verification - meaning veracity control of all information and documents submitted - is a continuous process that needs strict and consistent rules.

Verification of members' financial commitment coincides with the development schedule incorporated in the mutual commitment agreement between the cooperative and the gmina and with the schedule of payments included in the feasibility plan.

Verification of a member's pre-payment, as well as approval of funds for the actual land purchase is precisely determined by the cooperative's payment schedule which is a part of the project feasibility. Several steps are involved in acquiring the land for the project. It is advisable to sign a commitment agreement which describes mutual obligations connected to the planned transaction, sets the guaranteed price, precise date and place of finalizing the agreement. The price could be negotiated whether the land is communally or privately owned; however, an open bidding process is the most common procedure for acquiring communally-owned land and only in exceptional cases, determined precisely by law, it is possible to negotiate the price without bidding.

A signed contract to lease or purchase the land must be approved under the procedures of the Notarial Act which should be recorded by the court in the Deed Book. A separate Deed Book must be established when the purchased land is extracted from a larger estate.

To be noted

Two options are standard in acquiring land: buying the land (typically requires a 100% payment) or leasing the land under a 40- or 99-year perpetual lease. If the land is acquired under a perpetual lease, a down payment of 15% to 25% of the value of the land is expected, and a fee will be charged which can be adjusted on an annual basis. The fee is typically about 1.3% of the total value of the land.

References

See Step M-6 and Step G-5 for parallel action by the members and the gmina.
See Document C-8 in Appendix 2 as a sample excerpt from the Land Register.

Step C-9

✓_ Cooperative applies for a construction loan

Purpose

The cooperative applies for a construction loan in order to secure bank financing for the project. Although the construction phase of the project would be initiated using cash on hand, the contractor wants to know whether or not the cooperative has secured financing throughout the entire construction. The cooperative should therefore obtain the banks' commitment of loan guaranty. Banks, considering the amount of the loan, typically require the borrower to provide 20% to 40% of the construction costs themselves.

Commentary

The cooperative prepares the construction loan application, which includes individual mortgage loan applications prepared by the cooperative members, as well as documentation of the cooperative and the cooperative members' own accumulated financial resources. The bank verifies the information in the application package and their conformity with earlier agreed upon technical conditions of the project (e.g. construction duration, planned usable floor area, energy saving factors and technological durability). The verified documents enable the bank to offer a commitment for the construction loan or an opinion of the possibility of allocation. Preliminary, non-committing analysis of the application by the bank makes it possible, on the basis of cooperation, to clear up all interpretation divergence in the provided information and to determine:

- a) steps and documents essential for the final completion of the construction credit application,
- b) the date for application submittal by the cooperative,
- c) the date for application review by the bank,
- d) the date for signing the loan agreement and its drawdown schedule.

Cooperation on the preliminary loan application enables both parties to omit formal procedures and make it easier for the inexperienced cooperative to avoid mistakes and prepare the documents properly.

A date for loan approval is critical for the entire project and therefore the application must be faultless. The terms and the date for the loan approval are binding for the other tasks determined in the feasibility plan.

Upon review of the documents, the bank may offer a commitment for the construction loan, without a guarantee of its approval, however, until all required steps are completed.

To be noted

Loan application requirements and procedures vary from bank to bank. Construction loans are often limited to a short period of time, sometimes only one year. Generally, a cooperative applying for a construction loan should demonstrate its ability to repay the loan, own the land for the project, provide cash up to 40% of the value of the project, provide formal architectural contract documents, and have signed commitments to transfer ownership to cooperative members.

Some banks require preliminary mortgage loan applications from individual members at the same time that the cooperative applies for a construction loan. The following information is often requested: information about the applicant's income and expenses, the amount of the mortgage loan requested, a description of the unit, and a statement from the property owner regarding the value of the land.

References

See Step B-3 for parallel action by the bank.

See Document C-9(a) in Appendix 2 as a sample resolution authorizing the cooperative to obtain a construction loan.

See Document C-9(b) in Appendix 2 as a sample financial analysis for a mortgage loan.

See Document C-9(c) in Appendix 2 as a sample mortgage loan application.

See Document C-9(d) in Appendix 2 as a sample contract between the cooperative and the members authorizing the cooperative to apply for a construction loan.

Step C-10

- ✓_Cooperative obtains approvals for the terms of development
- ✓_Cooperative completes the site development plan

Purpose

The cooperative must meet the terms for development specified by the gmina in the appropriate decision and obtain the necessary approvals before the site development plan can be completed. When the site development plan is completed and approved, the cooperative can finalize the project's feasibility plan and begin to solicit bids for construction services.

Commentary

If the cooperative prepares its own contract documents for infrastructure, roads and architecture all approvals and permits are the responsibility of the appointed architect and /or architectural firm. The architect often coordinates all documents between architectural trades (architects, structural engineers, electrical, plumbing, heating and air-conditioning systems) and engineering trades (roads, sanitary and storm sewage, water, gas power, central heating and telecommunication systems, etc.). The project cost, construction schedule and its terms of exploitation, (safety, comfort, esthetics and exploitation cost) are evaluated by the members of the cooperative. The contract documents include architectural, structural, mechanical and electrical drawings and specifications and cost estimates, as well as the site development plan. The cooperative may choose not to develop its own contract documents but must obtain all approvals required by the terms of development decision prior to the contract bidding.

The site development plan may be developed before other components.

To be noted

It is advisable for the cooperative to review the site development plan and other contract documents carefully before accepting them. Individual cooperative members should also give approval of their unit's design before the contract documents are accepted by the cooperative. It may be useful to hire an independent professional to provide expert assistance during the review.

The completed contract documents should be provided to the cooperative with the architect's seal and a statement of completeness. The architect should submit terms of correcting errors and proof of civil liability insurance.

References

See Step G-4 for parallel action by the gmina.

Step C-11

✓_Cooperative prepares the invitation to bid for construction services

Purpose

The cooperative, with assistance from a professional advisor, prepares information and documents to be used in the invitation for contractors to bid for construction services. Typically, the following information is included: general data about the project, the contract documents, and the procedure for submitting bids.

Commentary

Documents included in the invitation to bid help define the scope of work, terms of construction (time frame, costs, exploitation indicators, etc.) and the procedure for submitting bids. The documents and bidding procedures might be different if the cooperative selects the option of hiring a contractor to design and build the project or if the cooperative selects the option of hiring a contractor simply to build the project.

Before announcing the invitation to bid, conduct research to develop a list of local contractors who might be potential bidders. Ask about their size, financial status, reliability, and work record. If an open invitation is made, also send personal invitations to bid to the respectable contractors on the list.

It may be helpful to schedule a pre-bid conference at which interested contractors can seek clarification, obtain answers to questions, and receive information that might have been omitted. Develop a format for bidders to follow when submitting their proposal and stress the importance of complying with it. The bids may be reviewed in one or several stages. Single-stage review should select a contractor conforming to all requirements, who, after detailed negotiations, will sign the construction agreement. A multi-stage review, e.g. two-stage review, allows the cooperative to:

- check the bidder's financial and professional credibility,
- evaluate the submitted price and the work plan.

To be noted

The goal for a design-build bidding is to select a contractor who is also responsible for contract documents (based on the cooperative's concept). Such a form of bidding increases the contractor's responsibility and decreases the cooperative's risk.

All expenses resulting from errors in documents must be covered by the party responsible for its preparation. Preparation of the documents by the investor - the cooperative - is the most common practice. The design-build bidding changes this practice lifting the responsibility from the cooperative.

Lack of appropriate insurance for the professionals such as architects and engineers (to pay for the errors in documents they prepare), forces the cooperative to cover all expenses resulting from the errors - correction of error or delay of construction. This takes place only when the cooperative hires an architect to prepare the contract documents. In design-build bidding the cooperative prepares the concept of design.

The professional advisor should assist the cooperative in determining an estimate of the anticipated cost of the project before soliciting bids from the contractors. The goal is receive bids that are close to the estimated cost of the project.

The cooperative should request that all proposals be in writing and should not accept bids from contractors that are made verbally after the deadline for submitting bids is past.

It is worthwhile for the cooperative to make a stipulation that it will reserve the right to cancel the bidding without stating the reasons, that it will not be obligated to resolve the bidding in a given time and that it will not cover any expenses borne by the participants.

References

See Document C-11 in Appendix 2 as sample correspondence on the selection of a contractor.

Step C-12

✓_ Cooperative solicits bids for construction services

Purpose

The cooperative publicly announces an open invitation to bid for construction services in order to select the best contractor for the job. The decision is based on the cost estimate and other data proposed by qualified contractors for construction services specified in the bid information documents.

Commentary

The bidding process generally includes several steps: invitation to bid, bid opening, solicitation of bids, review of the bids submitted, and selection of the preferred contractor.

The invitation to bid is typically announced in the local press or made at a public meeting to which potential contractors are invited.

A review of the proposals received is easier if a chart is used to identify whether the bidder meets the cooperative's criteria. The basic information on the chart might include the potential contractor's price for a square meter of space, the total cost of the contract, the time period for construction, the cost of contract documents, exploitation indicators for the proposed technology (energy saving materials and systems the materials' impact on the units' environment, exploitation costs for the units such as heating, etc.), documents confirming the contractor's financial credibility (financial guarantees, insurance, no delays with tax payments, current loans, etc.), completed contracts, letters of recommendation, ability to give a construction loan to an investor, type of construction and post-construction guarantees, and additional information not required by the general condition of the bidding, but important for the evaluation of the bid.

An initial decision about the preferred contractor is often made by a selection committee made up of cooperative members. To become final, the committee's recommendation must be voted on by the board of directors or the membership as a whole.

If construction involves a group of units (e.g. row houses or small apartment buildings) or is done in phases, individual members may select their own contractor, however, they should respect the rules set by the members' general assembly. It might be necessary to sign an additional agreement of work coordination when a number of contractors will be working simultaneously at the site.

To be noted

Information in a proposal for construction services is not binding; instead, the proposal typically serves as the basis for further negotiations. The cooperative may invite several contractors to participate in more detailed negotiations or may select one bidder and award the contract for construction services to him.

The best bid may not be one with the lowest price. All information about the contractor and that included in the bid should be verified carefully. It is especially crucial to check the contractor's financial credibility, quality of services, and timeliness of performance, and opinions given by previous clients. All offers should be available to the members of the cooperative. They should become familiar with the offers and comment upon those they are most interested in.

The cooperative may employ a professional advisor to provide an independent analysis of the offers, including the criteria for project feasibility as determined by the cooperative.

References

See Step M-7 for parallel action by the members.

Step C-13

- ✓_Cooperative negotiates an agreement with the contractor
- ✓_Cooperative coordinates the construction and payment schedules

Purpose

Before awarding the contract for construction services, the cooperative negotiates with the contractor to establish the best price, standards for performing the work, and procedures for managing unexpected problems. The goal of the negotiations is to sign an agreement acceptable to both parties where the specific regulations and responsibilities are set and the consequences of breaking the agreement are determined.

After the cooperative selects a contractor, the cooperative, the contractor, the bank, and the gmina conduct a final review of the feasibility plan and coordinate their schedules for development of the project.

Commentary

Typically, there are more contractors seeking jobs than cooperatives able to offer them. As a result, the cooperative is in a position of strength and can negotiate with all contractors simultaneously to choose the best offer. The negotiations should follow earlier determined rules and define precisely all conditions. In case of a design-build bidding it is necessary allowing the contractor to prepare contract documents which are a part of the final agreement. Lengthy negotiations caused by unsatisfactory solutions may result in the contractor's withdrawal from the project and damaged creditability of the cooperative. In such case it would be best to cancel the bidding and verify the project feasibility criteria and, perhaps, to put the development on hold.

The contractors' selection criteria could be set flexibly, depending on the scope of work intended, but they should always express the abilities and preferences of the members.

Final evaluation of the feasibility plan will result in the coordination of the schedule for project development, the schedule for construction, and the schedule for payments. The schedule of payments will include disbursements of the cooperative's construction loan and a schedule for its repayment through individual members' mortgage loans.

To be noted

During negotiations it may be essential to ask for legal and design construction assistance of the professionals. Keep in mind what can be gained and what can be given up. Be sure to keep from options open; do not walk away from the negotiation table without a plan to return and continue discussions.

References

See Step B-5 for parallel action by the bank.

Step C-14

___✓___Cooperative signs an agreement with the contractor

Purpose

Before the cooperative signs an agreement with the contractor, they negotiate the contract's terms and timetable of construction, the schedule of payments and completeness of all documents necessary for obtaining a loan (e.g. contract documents - if prepared by the contractor) and finally they determine total construction cost (i.e. individual agreements between the contractor and cooperative members buyers regarding the scope of work and the standard of the finishes, meeting their requirements and financial affordability).

Commentary

Several important items should be included in the contract:

- a guaranteed maximum price, if one can be negotiated, including value-added taxes,
- clear identification of the items included or not included in the guaranteed maximum price,
- terms for amending the contract, including indexing values for labor, the purchase price of materials and services, the total cost of construction, and profit,
- a construction schedule with itemized values of building elements,
- elements of construction that will be billed for upon completion,
- the terms and schedule of payments,
- a reserve fund for contingencies (5% to 10% of the total cost) to be placed in an escrow account.

After the guaranteed maximum price is established and the contract is signed, the total estimated cost of the project can be determined more accurately.

A cash-flow schedule of income and expense payments can be developed following acceptance of the construction schedule.

The construction schedule and payment schedule are especially important to the development process. They should be approved by all the parties involved and included in the agreement between the cooperative and the contractor.

To be noted

Establishing a guaranteed price is very different but possible. It helps control the overall cost of construction and to foresee the cash and credit resources needed before starting the construction process. It also decreases the financial risk of the development and enables the cooperative to determine possible mortgages for the future buyers. After preliminary agreement with the contractor the cooperative signs the ownership transfer commitment with its members and then signs the final agreement with the contractor. The most important terms of the agreement between the cooperative and the contractor should be repeated in the individual agreements between the cooperative and its members. The cooperative's failure to fulfill the contract, especially delays in making payments, may result in expropriation of the estate in favor of the contractor.

The contingency reserve fund is a tool that can be used to help ensure acceptable performance by the contractor. Payment of the amount held in the reserve fund is withheld until any deficiencies in the work are corrected.

References

See Step M-8 for parallel action by the members.

See Document C-14 in Appendix 2 as a sample agreement between a cooperative and a contractor.

Step C-15

✓_ Cooperative obtains a building permit

Purpose

The cooperative must obtain a building permit in order to authorize construction to begin and to apply for a construction loan from the bank.

Commentary

The contractor may commence construction when he or she receives a valid building permit. Several steps must be completed by the cooperative before applying for a building permit, including signing a mutual commitment agreement with the gmina (if one is agreed to), acquiring the land, obtaining a decision on terms of site development, and accepting the project's contract documents.

The gmina's architect reviews the application and documents and reaches a decision about whether to provide a building permit, typically within 30 days. He verifies project compliance with the City master plan and terms of site development, and checks completeness of contract documents and all required approvals.

The gmina's architect sends a notice about the plan to issue the building permit by registered mail to all parties involved and waits for 14 work days for any objections. If no objections are received, the building permit becomes valid.

A building permit becomes invalid if construction process does not begin within 2 years following date of its issuance.

The basic documents submitted with the application for a building permit include the following:

- a motion by the cooperative or its authorized representative
- proof of land ownership or land perpetual lease
- a decision on terms of site development
- contract documents (approved site development plan and schematic drawings and specifications provided by each discipline) and any written agreements or approvals required in addition to the contract documents, such as an agreement with the gmina about participation in communal infrastructure and services, an agreement with the neighbors about mutual services or access to land, a permit for removal of trees or shrubs, or an approval by the voivodship's Office of Historical Preservation.

To be noted

The feasibility plan should determine the time needed between bidding and building permit issuance, which is necessary for the development of contract documents. It is also important to coordinate loan application and review process with the first draw from the loan. Considering the complexity of the procedures connected with obtaining a building permit and the almost simultaneous efforts for obtaining a construction loan, early cooperation with gmina and bank seems to be necessary and beneficial to all parties.

References

See Step G-6 for parallel action by the gmina.

Step C-16

✓_Cooperative manages the construction period for the project

Purpose

The cooperative's main effort during the construction period is to manage the construction according to the building code and the agreement with the contractor and to keep the work on schedule and within budget.

The cooperative should hire a qualified construction administrator to manage the complicated tasks of the construction process.

Commentary

Construction administration is closely connected to periodic payments to the contractor for the work completed, as the contract elements are approved by the cooperative throughout the construction period. A professional construction administrator employed by the cooperative should be familiarized with the cooperative's internal procedures regulating the construction financing by the members, as well as with the bank's terms for construction loan draws.

The cooperative investor is statutory responsible for the construction process organization and administration. The following are participants of the construction process:

- the cooperative investor,
- construction administrator (employed by the cooperative),
- project designer design administrator (employed by the cooperative or the contractor),
- construction supervisor or group supervisor (employed by the contractor),

In order for the contractor to begin construction at the site, the cooperative must take the following steps:

- deliver the contract documents to the contractor, unless the contractor was responsible for their preparation,
 - provide the contractor with the building permit and construction record book, and approved contract documents,
 - identify and mark the site boundaries, the building site, and the exterior infrastructure locations,
 - direct the contractor to access electricity and water for construction purposes,
 - remind the contractor about special agreements with neighboring properties.
- The basic responsibility of the construction administrator employed by the cooperative is representing the cooperative's interests at the construction site, by:
- overseeing the construction schedule,
 - keeping the construction process in compliance with the contract documents, building permit, material specification, Polish Building Code and technical knowledge,
 - verifying quality of the work and materials,
- verifying and approving the work near completion (or hidden) including the systems, vents and built-in equipment,
 - participating, along with the bank's inspector, in pre-scheduled (according to approved project's cash-flow) inspections and approvals of work completed and submitted for payment. This is done to determine the value of completed work and to advise the cooperative in deciding about making the payment. The supervising bank inspector's opinion is regarded as decisive in this matter.
 - scheduling and participating in final acceptance of the completed construction, together with the

members of the cooperative's board, the bank's inspector(s) and the member of the cooperative who acquires ownership of the unit.

Step C-16 / Part 2: Procedures for the Housing Cooperative

During the construction process, the cooperative attends to technical, financial, and organizational matters.

Typical technical activities include hiring a construction administrator and inspectors, scheduling periodic meetings to review construction progress, calling emergency meetings of the membership to respond to technical difficulties, and developing procedures for handling requests for changes from individual members, and coordinating the ownership transfer procedures. Financial activities include controlling construction costs, managing cash flow, and coordinating the payment schedule with the bank. To encourage cooperative members to make their scheduled payments on time and avoid problems with cash flow during the construction period, the cooperative may want to establish rules allowing interest to be charged for delinquent payments.

Organizational activities include ongoing marketing of the project, signing contracts with and training new members, supplementing documents required for the individual mortgage loans, verifying the amount of construction loan needed (with approval of the members' general assembly), and planning for management of the cooperative following occupancy, etc.

To be noted

The cooperative may formally assign each unit to a cooperative member (transfer the property ownership) one or two months before scheduled occupancy, after which the law allows the member to withdraw their savings from the PKO BP Bank.

References

See Step M-9, Step G-7, and Step B-7 for parallel action by the members, the gmina, and the bank.

Step C-17

__✓__ Cooperative accepts final completion of the project

Purpose

When construction of the project is substantially complete, the contractor asks the cooperative to inspect the work. During inspection, the review committee, which includes the cooperative's board, the member (future owner), the contractor and the construction administrator, develops a list of deficiencies that must be corrected by the contractor.

The cooperative accepts final completion of the project only when the contractor's work is finished satisfactorily.

Commentary

When the construction work is substantially complete, the contractor should submit to the cooperative all applicable guarantees, spare parts, maintenance materials, and records before requesting an inspection.

A list of deficiencies in the construction work is developed by the cooperative's construction administrator and professional advisor during the inspection process. The list serves as a guide for the contractor to make necessary corrections. Typically, the agreement between the cooperative and the contractor provides penalties for any delays in making the required corrections.

Final acceptance of the completion of construction should take place within the time period specified in the construction contract. If weather conditions force a delay in work on exterior finishes, the acceptance will be conditional on completion of the delayed work.

When a final payment to the contractor comes from the bank then a decision on final completion of the project is made by the bank's inspector and the member (future owner). When the cooperative intends to use the member's deposits to make a final payment to the contractor, then the members and construction administrator have to accept the final completion. However, all members of the review committee must agree with a final decision.

Following final acceptance, the cooperative should retain funds in an escrow account (typically 1% of the total cost of construction) for repairs or replacement of defective materials or workmanship that the contractor guarantees to make. The guarantee period is usually one year from the date of final acceptance of the construction.

To be noted

The cooperative should make its final payment to the contractor only when it is fully satisfied with the construction work. Often, the only way to force the contractor to fulfill his obligations is to withhold the final payment until all required corrections are made.

The cooperative inspector (construction administrator) should not accept the project's final completion without prior review by the bank's inspector.

When the cooperative accepts the project's completion then the payments to the contractor become obligatory.

It should never be assumed that the bank's inspector will agree with the cooperative inspector's opinion.

If the bank's inspector rejects the work the cooperative must deal with all financial commitments on its own. If the cooperative counted on the bank's financing and lacks its own financial resources to make the payments to the contractor, the contractor applies penalties for any delays in payments, which may lead the cooperative to bankruptcy. The bank's financing can be provided when the bank changes its opinion because the deficiencies are corrected.

To avoid bankruptcy the cooperative members must re-hire the contractor or hire another one to make corrections required by the bank and hope for a positive opinion from the bank, and thus for a draw from bank's approved credit line.

Frequently, a survey is conducted after construction is completed to verify the usable area of the units. The results of the survey determine the official size of each unit and become the basis for establishing each unit's value.

References

See Step B-8 for parallel action by the bank.

See Document C-17 in Appendix 2 as a sample protocol for the acceptance of final completion of construction.

Step C-18

- ✓_Cooperative authorizes occupancy of the units
- ✓_Cooperative transfers ownership of the property

Purpose

The cooperative obtains an occupancy permit from the gmina in order to provide individual members with a document they can use to establish a postal address, register their residency, obtain a property tax assessment, and qualify for a mortgage loan from a bank. The construction completion and a transfer of the property ownership should be coordinated with the final financial settlement between the member and the cooperative. Upon final completion of the project, the cooperative issues a formal authorization for occupancy, provides keys to allow individual members to move into their units, and transfers ownership of the property to cooperative members.

Commentary

The cooperative development is based on a contract agreement approved by each individual member, according to their financial abilities. All units are constructed to, at least, a minimum scope of work agreed by all participants; the scope and schedule for interior finish work may vary. Often the work is done by the contractor within the time period of the project's construction schedule. In some cases, some of the interior and exterior finish work can be completed by the cooperative members through self-help efforts. The scope of finish work depends on type of construction financing selected by a member. When a financing is partially provided by a bank the minimum scope of finishes, allowing occupancy of a unit, is typically required. The all-cash buyers may decide on that matter themselves, as long as their decision does not affect (technologically and exploitation - wise) their neighbors.

Upon acceptance of the construction work, the cooperative transfers ownership of the project to cooperative members, a transaction which must be carried out under the procedures of the Notarial Act.

The cooperative's responsibilities continue after construction is completed and the units are occupied. Important activities include implementing management procedures, establishing maintenance policies, and completing the members' manual of rights and responsibilities.

To be noted

The cooperative should notify the gmina that the project is ready for occupancy within seven working days of the date scheduled for members to move in to their units.

The cooperative should issue to each member an authorization for occupancy of their unit. The document allows the member to deduct construction-related expenses from personal income taxes. It is also required to close the savings account with the PKO BP Bank allocated for housing construction.

A member who is completing the finish work on their unit themselves or with their own contractor should submit all invoices for materials and services through the cooperative's accounting system in order to receive the tax deduction that is available.

References

See Step M-10 and Step G-8 for parallel action by the members and the gmina.

Part 3: Procedures for the Gmina

General Comments

Part 3 explains the requirements of the gmina (local government) throughout the housing development process as well as helpful information and services the cooperative may obtain from specific gmina offices during the project's development. The gmina - the council, the executive board, and the top administration - is elected by and represents local voters. It is important to remember that the gmina, among other responsibilities, is obligated by law to provide adequate living and working conditions for its citizens.

The cooperative housing development model on which this manual is based presupposes a novel role for the gmina: that of an equal partner collaborating closely with a developer such as a cooperative to achieve the common goal of housing development through successful joint action. The partnership approach has significant benefits for the community as a whole. This approach enhances understanding of the interdependence of actions, assures mutual assistance at every step of the development process, facilitates completion of required procedures, and ensures that development follows agreed-upon rather than imposed policy considerations.

In the light of CHF experience it seems extremely important to synchronize the local housing policy with the cooperative's objectives from very beginning. From the gmina's point of view, diversification of housing delivery process - through promotion of the cooperatives implementing of a low-budget housing ventures - should help the middle income families to participate in the process. Consequently, the gmina should ensure that communal land is made available for the specific project. It is a significant form of assistance since, with present high land prices and raising construction cost, the cooperative may not be able to acquire land for the project through the competitive bidding process, open to commercial developers. The ultimate risk of failure rests with the cooperative but, in the long run, also with the gmina, which neglected to support the middle/lower income constituents' effort of new housing development.

Several laws are relevant to the steps described in this part, and among them are:

- Building Code, dated 7 July 1994 (Dz.U.94 No.89, Item 414)
- Spatial Planning Act, dated 7 July 1994 (Dz.U.94 No.89, Item 415)
- Local Self-Government Act, dated 8 March 1990 (Dz.U.90 No.34, Item 199)
- Land Administration and Property Expropriation Act, dated 29 April 1985 (Dz.U.91 No.30, Item 127, No.103, Item 446 and No.107, Item 464, with later amendments)
- Decree of the Minister of Construction, dated 20 February 1975 (Dz.U.75 No.8, Item 48) on technical construction supervision
- Decree of the Minister of Construction dated 29 April 1975 (Dz. U. No.14, Item 82)
- Public Procurement Act, dated 10 June 1994 (Dz.U.94 No.76, Item 344, with later amendments).

Table 1.3 on the following page provides a summary of the steps involved in this part and illustrates how the action required of the gmina is related to the steps taken by the other partners.

Table 1.3 / Part 3: Procedures for the Gmina

Table 1.3
Summary of Action Required of the Gmina

Cooperative Member (M)	Housing Cooperative (C)	Gmina (G)	Bank (B)
Step M-1			
		Step G-1 • Gmina provides information about land use and development terms	Step B-1
	Step C-1		
	Step C-2	Step G-2 • Gmina provides information about the sale terms of the municipal	
Step M-2	Step C-3		
Step M-3	Step C-4		
Step M-4	Step C-5		
	Step C-6	Step G-3 • Gmina issues a decision on terms of site development	
Step M-5	Step C-7	Step G-4* • Gmina executes the site development plan with technical and social	Step B-2
Step M-6	Step C-8	Step G-5 • Gmina sells the land for the project	
	Step C-9		Step B-3
	Step C-10	Step G-4*	
	Step C-11		
Step M-7	Step C-12		
			Step B-4
	Step C-13		Step B-5
Step M-8	Step C-14		
			Step B-6
	Step C-15	Step G-6 • Gmina issues a building permit	
Step M-9	Step C-16	Step G-7 • Gmina oversees construction conformity with the building code and	Step B-7
	Step C-17		Step B-8
Step M-10	Step C-18	Step G-8 • Gmina receives a notice of readiness for occupancy • Gmina issues an occupancy permit	Step B-9
		Step G-9 • Gmina establishes postal addresses for the new units • Gmina assesses property taxes	

* Activity in Step G-4 relates to both Step C-7 and Step C-10

Step G-1

✓ Gmina provides information about land use and development terms

Purpose

The gmina is responsible for preparing and making available adequate information to help a prospective cooperative select a project site and define the terms and other relevant conditions for development of the site. The information will allow the cooperative to:

- determine a character of the development to comply with zoning information,
- determine the ownership of the land and possibility of land purchase; and in case of municipal land, to obtain the terms of its purchase,
- decide about the site development concept.

Commentary

Every gmina is obligated by law to designate land for housing development and to prepare and keep an up-to-date master plan for the locality. Sometimes, a housing policy is conceptualized as well and serves as a guideline for the gmina's housing development strategy.

Zoning information should be available to any interested citizen. Periodically, the gmina's Department of Planning may hold a public review of revisions, proposals, and changes to the master plan. This may serve as a source of basic information on land availability prior to selection of a project site.

Among other things, a zoning plan defines the land designated for housing, typically stating the type of construction permitted (e.g., single- or multi-family dwellings, height limitations), special permits required, land ownership, and existing and planned infrastructure services.

A housing policy may or may not be developed locally. It normally describes the status of the existing housing stock, plans for housing development in the locality, the role of the gmina in the housing delivery system, financing options, and so on.

The gmina may develop a catalog of information on potential sites offered for housing and the terms for development of the sites.

The gmina may propose a mutual commitment agreement with a developer, including a housing cooperative. The agreement may help the developer avoid the need to participate in an open bid to purchase land.

The gmina may also propose to assist a developer, such as a housing cooperative, in preparing the site development plan for a housing venture.

To be noted

The information provided by the gmina can help identify a preferred district, considering attractiveness of land purchase terms and suitable technical conditions, where future development may occur. An interested developer, such as a housing cooperative, should note the general direction of planned development, the areas zoned for housing, and plans for technical and social infrastructure services.

As part of the effort to provide information, a gmina may consider preparing and making available:

- legal information and regulations on the purchase of land and the acquisition of building permits
- a schedule of fees
- the names and addresses of the institutions providing geodesic documents as well as information about technical, environmental and other conditions essential for the potential investor.
- a catalog of architectural concepts.

If the housing project and site development plan are prepared by the gmina, they should be discussed

by the group of initiators during the formation of the cooperative and its registration with the court so the cooperative can begin consultations with a bank and initiate development of a preliminary feasibility plan and architectural concept.

Ownership of land is not a concern at this step.

References

See Step M-1, Step C-1, and Step B-1 for initial action by the members, the cooperative, and the bank.

Step G-2

✓ Gmina provides information about the sale terms of the municipal land selected by the cooperative _

Purpose

It is the gmina's responsibility to decide about the municipal land sale and to prepare appropriate documents for the cooperative, thus allowing the latter to determine the strategy for the development. Such information will help the cooperative to:

- determine the development plan conforming with the local master plan,
- advance the project's concept in order to obtain the gmina's decision about the site development terms,
- prepare for purchase of the land.

Commentary

The gmina may decide about the terms of sale of the municipal land designated for housing cooperatives, in accordance with the law, and make the information available to the local community and especially to the interested cooperatives. Such information may relate to the gmina's budgetary plans and schedules for infrastructure construction.

To be noted

The gmina's information on the municipal land policy and its development schedule (with the participation of the gmina's budget) should affect the market value of the developed land for both housing and commercial parcels and stimulate economic growth of the community providing profits for gmina and its inhabitants.

References

See Steps: C-1, M-1, B-1 for initial action by the cooperative, cooperative members and the bank.

Step G-3

✓_Gmina issues a decision on terms of site development

Purpose

It is the gmina's responsibility to prepare appropriate documents enabling the cooperative to obtain a decision on the terms of site development, which, if reflected in the architectural design, will secure a building permit for the project. Such information will help the cooperative to:

- define the terms and schedules of the project's development,
- make decision on land purchase,
- obtain a building permit,
- organize the construction process, i.e. develop contract documents, conduct construction and accept the completed work.

Commentary

It is the gmina's responsibility to determine zoning and terms of land development in a locally prepared master plan. In case the gmina has not prepared a master plan the decision is based on existing law. When the land receives a decision on terms of development the cooperative should get acquainted with its contents and learn about other investors' plans. When the land lacks such a decision, the cooperative should prepare the project's concept including technical information, and apply for a decision.

Information included in the decision should be sufficient to develop the project and feasibility plan.

Application for the decision on the terms of site development should specify:

- borders of the site,
- functions and methods of site development,
- characteristics of housing and site development (single-family or multi-family housing, site features),
- requirements of the technical infrastructure (e.g. water and energy demand, systems for heating, sewage and its treatment, etc.),
- other characteristic data of the project.

It is advantageous when the gmina collaborates with a group investor (for more than ten lots) such as a housing cooperative, in order to coordinate construction of technical infrastructure and the housing units.

The gmina's participation in the site development plan, suitable for the local market conditions, could be very helpful to the investor.

To be noted

A decision on terms of site development is binding for both parties, the applicant and the gmina, and gives no rights for the land purchase, but its requirements must be satisfied for obtaining a building permit. When the decision is valid, and its requirements are satisfied, the building permit cannot be refused or the decision changed.

The site development plan prepared by the gmina should be presented to and discussed with the community, with suggested development options, e.g. proposing the cooperative or other form of group investor or local contractor's involvement. Ownership of the land and professionally

prepared architectural design, in accordance with the decision terms, allow the building permit to be obtained.

References

See Steps: C-1, M-1, B-1 for initial action by the cooperative, the cooperative members and the bank.

Step G-4

✓ Gmina executes the site development plan with technical and social infrastructure

Purpose

The gmina designs the road system and the main technical infrastructure necessary to issue the decision on the terms of site development plan for interested investors.

Formal approval of the site development plan allows the gmina to begin infrastructure work and proceed with sale of the land to a qualified developer such as a housing cooperative. The approval is also important for a cooperative which already owns land. It allows the cooperative to:

- apply for a building permit,
- begin negotiations with a bank for financing,
- apply for the land purchase,
- obtain title deeds to property according to an approved land subdivision scheme for multi-property development.

Commentary

The gmina is not obligated to elaborate a development plan in more details than is required by its public duties. However, in a limited local housing environment the gmina may decide to promote such activities, thus stimulating the local economy, by preparing the conceptual site development plans by itself to attract investors. When possible, the plan should consider organizing interested members of the community into a housing cooperative.

Collaboration with the cooperative guarantees a success of the development and recovery of the resources invested by the gmina.

The cooperative should accept the proposed plan and on its basis apply for the decision on terms of the site development. It should also further advance the project if not completed by the gmina.

Analysis of the gmina's system of road design and the main technical infrastructure helps the cooperative to determine the technical criteria for connection to the infrastructure located or planned off-site. Such information affects the architectural project and on-site technical infrastructure design as well as the cost of its construction.

To be noted

A cooperative that owns the land and has received the terms for site development and prepared the site development plan may apply to the gmina for approval of the plan.

A cooperative that has received terms for site development (for the land it intends to purchase), should determine its applicability for the project before further plan elaboration and approvals.

If the project will be located in the historical zone of the city, the cooperative must obtain approval from the voivodship's Office of Historical Preservation. Such approval sometimes encounters significant problems and delays.

A separate permit must be obtained for the removal of trees or vegetation from the site.

References

See Step M-5, Step C-7, Step C-10, and Step B-2 for parallel action by the members, the cooperative, and the bank.

Step G-5

☒ Gmina sells the land for the project

Purpose

Ownership of the land or a perpetual lease are required by the gmina in order to issue a building permit. One of the basic requirements for a bank loan is proof that ownership of the land has been transferred under the procedures of the Notarial Act and is documented by a registered property deed.

Commentary

The sale of land should reflect a development strategy envisioned by the gmina. The gmina may dispose of its communally-owned land by selling it or offering it for perpetual lease; the same options apply to land owned by the national Department of the Treasury. In either case, a public bidding procedure is generally required, although exceptions are permitted. Communally-owned land to be used for housing development may be sold through an open or limited bid procedure. The terms are defined by the gmina's council, and execution of the bidding procedure is managed by gmina officials. The sale is legalized under the procedures of the Notarial Act. All relevant fees are paid by the purchaser. Specific regulations, including the terms of the sale, are determined by national laws and decrees. Until the end of 1995, the Gmina's Council has a legal right to exempt a land sale from the bidding procedure, when the buyer is a housing cooperative whose membership contains cooperative candidates from a voivodship list kept to identify individuals qualified for exemption. The sale may be associated with an architectural competition when a parcel of land carries special value for the locality (e.g., in a historic area).

To be noted

At the latest, a cooperative can acquire land and establish ownership status just before applying for a building permit. Practically, however, the cooperative will be required to show proof of land ownership to secure bank financing long before obtaining a building permit.

It is more difficult for the gmina to prevent land speculation when land is offered for sale through an open bidding process rather than a limited bidding process, in which the gmina has an opportunity to pre-approve potential bidders.

If the mutual commitment agreement allows it, the cooperative could purchase land in sections, according to the phases of development and the number of financially qualified cooperative members available.

If single-family dwellings are planned for the site, investigate the options for formally subdividing the land early enough to avoid a waste of time and money. Practically, land can be subdivided after complying with the procedures of the Notarial Act if the site development plan showing individual lots is already approved.

The land sale and new ownership confirmation can be a time-consuming process that differs throughout regions and gminas. Therefore, the timetable of the project (which depends on the timing of legal procedures, especially in relation to registering property deed) should be taken into consideration during planning stage.

An information regarding terms of land sale plays an important role for small housing cooperatives.

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The possibility of land purchase without bidding enables them to determine their financial abilities in the early stage of the project feasibility criteria evaluation. Participation in an open bid process is always a "to be or not to be" situation for all but one of the participating investors. A small cooperative run by volunteers may often decide against entering an open bid competition, because of the probability of wasting their money. Therefore, the gminas should carefully define their land policy, considering small, low-budget housing developments.

References

See Step M-6 and Step C-8 for parallel action by the members and the cooperative.
See Document G-5(a) in Appendix 3 as a sample council resolution for the sale of land.
See Document G-5(b) in Appendix 3 as a sample approved land sale agreement.

Step G-6

☒ Gmina issues a building permit

Purpose

The cooperative may begin construction only when it obtains a building permit which is issued by an authorized state or gmina's office. A building permit sets the terms to be satisfied before and/or during construction. Issuance of a building permit by the gmina enables the cooperative to gather all the documents required by the bank for the loan review process and by the tax collection office in connection with possible tax deductions for the investor.

Commentary

Obtaining a building permit is a very important step in the development process which begins its essential part - the construction. This determines the schedule of construction - it indicates the date of its commencement and the time of its final completion. It also affects the construction payment schedule and times for the loan draws. Even though the development may be intended in stages (e.g. one multi-family building or one section of row houses), it is required to present a development plan for the entire site.

The authority issuing the permit is obligated to provide a list and samples of documents required for submittal with the application. They usually include: the project documentation, site plan, contract documents, (i.e. affidavits from the authorities in charge of the city's technical infrastructure and, if necessary, soil borings) together with specifically required opinions and approvals, proof of ownership of the land, valid decision on terms of site development and construction supervisor's license.

The building permit often determines the organization of the site, dates for beginning and completing construction, requirements for construction supervision, reasons and procedures in the appeal process.

The cooperative must comply with all the conditions stated in the building permit and may appeal any unfavorable condition within 14 days. The gmina's architect is responsible for notifying all parties that might be affected by the building permit. The cooperative is responsible for erecting an information board at the construction site. Starting construction work without first obtaining a building permit is a violation of the law.

To be noted

The beginning of construction and the construction schedule affect the financing and payment schedules and need to be closely coordinated. Each of these elements may affect the final price. Collaborating with the gmina to obtain an early review of the documents prepared for the building permit may assist the cooperative in its loan obtaining efforts.

As part of the process of awarding a building permit, the gmina's architect will notify the owners of neighboring land and will request their consensus for the building permit. This activity normally takes two or three weeks, but sometimes results in significant problems and delays.

A permit may be needed to install infrastructure or utility services through other property; such a permit must be obtained from the owner of the other site. Permits may also be needed to allow infrastructure to be constructed through sidewalks or roads or to allow construction vehicles to obstruct vehicular or pedestrian traffic on public roads.

Collaboration between the gmina and the cooperative may only help the development process and it will be counter-productive to neglect it.

References

See Step C-15 for parallel action by the cooperative.
See Document G-6 in Appendix 3 as a sample building permit.

Step G-7

✓ Gmina oversees construction conformity with the building code and the building permit

Purpose

The gmina inspectors' role is to ensure compliance with the national building code, local regulations, and conditions of the building permit. They check the date of construction commencement and safety at a job site. They have the right to require and enforce corrections at any time during the construction process, including stopping construction. They are also responsible for the approval of work performed at connections of off-site main technical infrastructure. They also receive a report on construction completion.

Commentary

The gmina issues the building permit and the project's construction record book, verifies the licensing and professional qualifications of the construction supervisor, and reserves the right to ensure that construction is done correctly. Prior to the start of construction, the contractor is required to identify a construction supervisor whose professional qualifications are verified by the gmina's architect. The construction supervisor is responsible for managing the construction process and ensuring compliance with all permits and building laws. The contractor is also required to keep the project's construction record book up-to-date at the construction site. The gmina may also obligate the investor to perform construction administration through the employed inspectors and the project designer. The inspector must be a licensed professional. For practical purposes, the gmina's inspectors have no power to control the course of the construction process; their activity is limited to a protection of the gmina's interest in accordance with the building permit's regulation. They also protect public rights and especially the safety conditions at the job site. They are empowered to stop the works in the event of any illegal construction.

To be noted

Recent revisions to Poland's building code provide for more restrictive regulations and more stringent penalties for noncompliance. It is good practice for the cooperative to be aware of the fees and the inspection schedules required by the gmina's inspectors and the utility companies' representatives for the acceptance of infrastructure work such as connections to existing main lines, exterior lines, meters, and interior lines, as well as the correct construction of exhaust vents for gas and smoke.

A large variety of imported building materials are available in Poland, but only those materials approved by the Building Technique Institute (Instytut Techniki Budowlanej) in Warsaw can legally be used. The use of materials that have not been officially approved is illegal and subject to penalty.

It is important to comply with safety regulations at the construction site, such as the use of safety rope and hard hats, to prevent the occurrence of accidents and the cost of injuries and penalties for violations. Accidents and penalties may increase the overall development cost and even lead to a failure of the entire project.

The gmina's inspectors do not make routine visits to the construction site; rather, they visit the site when they are invited or when they suspect that the building code is being violated.

References

See Step M-9, Step C-16, and Step B-7 for parallel action by the members, the cooperative, and the bank.

Step G-8

- ☒ Gmina receives a notice of readiness for occupancy
- ☒ Gmina issues an occupancy permit

Purpose

After completion of construction, the cooperative is required to notify the gmina that the building is ready for occupancy. No other action is necessary, unless specifically required by the building permit.

Following the cooperative's notification, the gmina issues a permit stating that the building may be occupied.

Commentary

Notification that the building is ready for occupancy must be filed with the gmina no later than seven working days after occupancy begins. When providing the notification, the cooperative must include:

- a statement signed by the construction supervisor that the work was done in accordance with the building permit and all building regulations,
- the project's construction record book,
- the results of all tests conducted during construction,
- documents confirming acceptance of the infrastructure construction by the authorities involved.

Before issuing its acceptance, the gmina's inspector should make a final inspection to ensure that the construction work is in compliance with the building code and that all construction approvals have been obtained. The inspector should also record the location of the infrastructure at the site with the department responsible for keeping such records.

To be noted

When the contractor has total responsibility for the project from design through completion, the contractor should prepare the notification that the building is ready for occupancy.

When the unit owner takes responsibility for finishing construction, the unit owner should prepare the notification that the unit is ready for occupancy.

In case a cooperative member has applied for a mortgage loan, finishing work that is done outside of the scope of the construction contractor's responsibility should be approved by the bank's inspector.

However, it is advisable that all cooperative projects be managed and completed with assistance of the housing cooperative.

References

See Step M-10 and Step C-18 for parallel action by the members and the cooperative.

See Document G-8 in Appendix 3 as a sample notice of readiness for occupancy and occupancy permit.

Step G-9

- ☒ _Gmina establishes postal addresses for the new units
- ☒ _Gmina assesses property taxes

Purpose

A cooperative, as a group investor, or the individual buyer notify the gmina about their readiness to occupy the building. If it is accepted, the issuance of a new postal address follows and new owners can register a permanent residence. This entitles the gmina to assess appropriate property taxes.

Commentary

If the construction was financed from the Mortgage Fund, the bank allocating the mortgage loan obligates the owners to have their permanent residence established. Payment of the property taxes may be required by the bank prior to the mortgage loan disbursement.

To be noted

It is very important to collect all inspection certificates throughout construction, including test documents, approvals and warranty papers to resolve any future problems between the cooperative, the member, the bank and the contractor.

References

- See Step B-9 for parallel action by the bank.
- See Document G-9 in Appendix 3 as a sample notice of street number assignment.

Part 4: Procedures for the Bank

General Comments

Part 4 focuses on selected issues of housing finance, with particular attention paid to actions and procedures leading to securing individual mortgage financing for cooperative members.

There are a limited number of banks in Poland that lend money for housing projects. Typically, such banks offer construction loans as well as mortgage loans. Eligibility requirements and terms for loans vary from bank to bank, but are generally quite stringent. It is advisable for the group of initiators or the cooperative to select a bank and establish a working relationship with the bank at the earliest possible stage.

The leading source of financing for housing is currently the mortgage fund established by the government of Poland, the World Bank (International Bank for Reconstruction and Development), and the U.S. Agency for International Development. It has the equivalent of more than \$400 million available to qualified borrowers. The funds are disbursed from the Bud Bank through a system of participating bank offices located regionally. The PKO BP Bank has traditionally provided financing for the housing industry. There are also other lenders, such as commercial banks established centrally or regionally, that specialize in making short- and mid-term loans (terms up to 10 years) available to housing cooperatives and developers.

It should be understood that the term „loan commitment” used in this part carries a slightly different meaning in Polish banking practice than in the United States. In Poland, such a commitment is more accurately a promise, frequently conditional, and sometimes given in the form of a written opinion. It cannot be understood as a bank's guarantee to approve the loan.

The basic legal act applicable to the steps in this part is the Banking Law of 1989 (Dz.U.89 No.4, Item 21) and relevant decrees made by the Minister of Finance. Specific rules and regulations established by each bank are also relevant and should be provided to each potential borrower, although in practice, such information is often available only to bank employees.

Table 1.4 on the following page provides a summary of the steps involved in this part and illustrates how the action required of the bank is related to the steps taken by the other partners.

Table 1.4 / Part 4: Procedures for the Bank

Table 1.4
Summary of Action Required of the Bank

Cooperative Member (M)	Housing Cooperative (C)	Gmina (G)	Bank (B)
Step M-1		Step G-1	Step B-1
			<ul style="list-style-type: none"> Bank participates in defining the project's overall feasibility criteria
	Step C-1		
	Step C-2	Step G-2	
Step M-2	Step C-3		
Step M-3	Step C-4		
Step M-4	Step C-5		
	Step C-6	Step G-3	
Step M-5	Step C-7	Step G-4*	Step B-2
			<ul style="list-style-type: none"> Bank makes a preliminary evaluation of financial feasibility
Step M-6	Step C-8	Step G-5	
	Step C-9		Step B-3
			<ul style="list-style-type: none"> Bank evaluates the project's credibility Bank defines the construction loan terms Bank makes a preliminary commitment for the construction loan
	Step C-10	Step G-4*	
	Step C-11		
Step M-7	Step C-12		
			Step B-4
			<ul style="list-style-type: none"> Bank evaluates individual mortgage loan applications Bank makes commitments for mortgage loans
	Step C-13		Step B-5
			<ul style="list-style-type: none"> Bank makes a commitment for the construction loan
Step M-8	Step C-14		
			Step B-6
			<ul style="list-style-type: none"> Bank approves the construction loan
	Step C-15	Step G-6	
Step M-9	Step C-16	Step G-7	Step B-7
			<ul style="list-style-type: none"> Bank reviews construction progress and disburses loan funds
	Step C-17		Step B-8
			<ul style="list-style-type: none"> Bank inspects construction upon completion Bank authorizes final payment to the contractor
Step M-10	Step C-18	Step G-8	Step B-9
			<ul style="list-style-type: none"> Bank approves individual mortgage loans Bank coordinates repayment of the construction loan
		Step G-9	

* Activity in Step G-4 relates to both Step C-7 and Step C-10

Step B-1

__✓__ Bank participates in defining the project's overall feasibility criteria

Purpose

A meeting of all parties participating in the project is important in order to establish credibility and to allow for the clarification of responsibilities and plans for collaboration. The group of initiators who will establish the cooperative, the bank, and the gmina must define the overall feasibility criteria for the project. The cooperative must provide information about the architectural concept, the construction schedule, and plans for collaboration with the bank and the gmina. The bank must provide information about the availability of financing, terms and conditions of loans, the application process for construction and mortgage loans, a schedule of procedures, and the responsibilities of each party involved. The gmina must identify its legal responsibilities, its commitments to the cooperative, the terms for collaboration, and the technical conditions and procedures required for development of the project, selection of the site, purchase of the land, and construction of technical infrastructure.

Commentary

The bank should clearly explain to the cooperative the conditions required to qualify for a construction loan and the loan servicing terms and repayment schedule. The bank may request specific information or documents from the gmina (such as contracts, financial resources, and work schedule) if the project depends in any way on the performance of commitments by the gmina, such as the construction of technical infrastructure. Representatives of the cooperative, the members, the bank, and the gmina should sign an agreement that defines the project's feasibility criteria, including:

- the gmina's preparation schedule and financial commitment related to price, terms and time of land sale (also, construction schedule of technical infrastructure, if needed),
- the cooperative's preparation schedule and financial commitment,
- the project's architectural design selection criteria,
- selection criteria for cooperative members,
- criteria for selecting the contractor,
- the project's preliminary cost and feasibility plan,
- the criteria and disbursement schedule for construction and mortgage loans.

References

See Step M-1, Step C-1, and Step G-1 for initial activity by the members, the cooperative, and the gmina.

See Document B-1(a) in Appendix 4 for a sample of bank information about construction and mortgage loans.

Step B-2

✓_ Bank makes a preliminary evaluation of financial feasibility

Purpose

In order to ascertain whether the project appears feasible and whether it falls within the bank's criteria for housing finance, the bank makes a preliminary evaluation of the feasibility plan prepared by the cooperative, which includes the project's estimated cost and proposed budget. The bank evaluates whether the members can establish that they are credible candidates to be considered for mortgage loans. Based on the same information, the bank also makes a preliminary determination regarding whether to provide a construction loan to the cooperative.

Commentary

The project's feasibility plan should include:

- the architectural design,
- the budget development data,
- the project preparation schedule,
- the preliminary construction schedule,
- the estimated construction cost including preparation and construction administration cost,
- the results of marketing efforts, including a list of potential members,
- the project's financing plan and schedule.

The project's architectural design shows schematic drawings illustrating unit layouts, elevations, sections, area tabulations, and structural and technological information. It should also include the basis of the cost estimate (e.g., the cost of one square meter or one cubic meter), alternative material and labor costs related to different technological solutions, energy-saving factors for various insulation options, and usage costs for different heating and hot water supply solutions. At a minimum, the data used to develop the project's budget should include the schedule and amount of: cash deposits for the project, cash guarantees by committed members, cash deposits for purchase of the land, cash deposits for ongoing expenses, construction loan transfers, and mortgage loan transfers. It should also include weekly or monthly tabulations of cash flow of the construction period broken down into site preparation and the physical construction stages.

The project's preparation schedule typically consists of a schedule of specific organizational, legal, and regulatory steps, such as the dates and procedures of the cooperative's general assembly meetings, court registrations, building permits, contracts, bids, registering the land deeds, obtaining construction loan commitments, and so on.

The preliminary construction schedule should be prepared by experts and should consist of an overall timetable for construction divided according to the main building components, flow charts illustrating the construction schedule and scope of work, and a billing and payment schedule (often determined by the schedule of disbursements from the construction loan).

To be noted

The bank will typically include the cost of the following components when evaluating the project's total cost: land, construction cost of all units, cost of the basic unit finished to the minimum level required by the bank, construction administration, loan fees, bank-verified cost of finishes, legal fees, marketing costs, architectural and engineering fees, and a contingency for unforeseen expenses.

The financing schedule should establish the date and amount of payments from the member to the cooperative and from the cooperative to the contractor. It should include such items as a deposit for the purchase of the land, full payment and fees for the purchase of the land, administrative fees for project preparation activities, a down payment for construction costs, scheduled payments for construction, and payments to the contractor, ownership transfer, legal, bookkeeping and administrative fees.

References

See Step M-5, Step C-7, and Step G-4 for parallel action by the members, the cooperative, and the gmina.

Step B-3

- ☒ Bank evaluates the project's credibility
- ☒ Bank defines the construction loan terms
- ☒ Bank makes a preliminary commitment for the construction loan

Purpose

In order to verify the project's credibility, the bank evaluates the contract between the member and the cooperative, pertaining to the member's financial commitment to pay for project preparation and the land purchase, and to make a down payment and payments during construction. The bank also verifies the mortgage loan application of those individuals whose cash deposits and payment services do not cover the expected construction costs. Based on received documents the bank analyses the cooperative's construction loan application. It also defines the terms and conditions that will apply to the construction loan.

When the project receives a positive review, the bank issues a preliminary construction loan commitment that can be included in the invitation for bids for construction services.

Commentary

The cooperative's credibility is generally accepted by the bank upon proof that the land is purchased and the members' down payments are deposited. The cooperative submits the construction loan application to the bank for preliminary review.

The bank may issue a loan commitment after completing an analysis of the project's feasibility. Such a commitment may be exhibited to potential members and contractors as proof of financing and may be included in the invitation to bid.

The bank and the cooperative should verify the schedule of upcoming activities, as well as other deadlines, to coincide with the availability of loan funds.

To be noted

The bank's commitment to a construction loan is a critical element in establishing the cooperative's credibility and, as a practical matter, the project's feasibility. Without a loan commitment, potential bidders interested in providing construction services might decline to participate.

References

See Step C-9 for parallel action by the cooperative.

See also below, Step B-8 for construction loan repayment.

See Document B-3 for a sample statement about compliance with construction loan terms.

Step B-4

- ☒ Bank evaluates individual mortgage loan applications
- ☒ Bank makes commitments for mortgage loans

Purpose

The bank reviews mortgage loan applications prepared by each individual member but submitted earlier by the cooperative with the application package, which contains financial information about each individual member as well as design and cost data for the project as a whole. Upon approval of the application package, the bank issues a mortgage loan commitment to each individual member and defines the amount of each loan approved.

Commentary

Information about the amount of mortgage financing approved for the members allows the cooperative to evaluate the commitment to transfer ownership, to adjust individual financing schedules, and to revise financing data in negotiations with the contractor. Verification of the ownership transfer commitments should be performed before the cooperative signs a simultaneously negotiated agreement with the contractor for the construction schedules and financial commitments of the parties.

An agreement between the cooperative and the contractor is often required by the bank before approval of the construction loan. In addition, the contractor may want to check the cooperative's financial credibility before signing such an agreement. In either case, it is advisable for the cooperative and the contractor to work together with the bank while developing the agreement terms in order to eliminate any possible conflict between the construction schedule and funds disbursement dates.

To be noted

The commitment to transfer ownership between the cooperative and each member must clearly set the dates of the required cash payments by the member to ensure adequate cash flow during the construction period.

The amount of a member's payment depends on the size of their down payment and terms negotiated by the cooperative with the contractor. The amount of the member's mortgage loan (and thus the amount of construction loan needed by the cooperative) may be less than the amount allowed by the bank, if the member provides the cooperative with documentation of other financial resources (such as a proof of bank deposits to be transferred to the cooperative's bank account in the amount and time determined by the cooperative).

It is important for members to understand the terms of their mortgage loan. They must understand that the mortgage commitment is not a final approval and that any false statement or breach of the terms will cause the commitment to be withdrawn.

References

See Step C-13 for parallel action by the cooperative.

Step B-5

☒ Bank makes a commitment for the construction loan

Purpose

To establish the cooperative's financial ability to execute an agreement with the contractor, the bank issues a commitment for a construction loan after reviewing the loan application and evaluating key documents, such as proof of land ownership, the contract documents, the contract between the cooperative and individual members regarding the transfer of ownership, the agreement between the cooperative and the contractor, and proof of the members' cash payments and mortgage loan commitments.

Commentary

After the cooperative and contractor fulfill the bank's requirements regarding project feasibility, the bank issues a construction loan commitment, providing proof of the cooperative's credibility to members and the contractor. This enables the latter to begin the contract documents' development which may be a part of a construction agreement.

Issuing a loan commitment is a new procedure for banks in Poland and is not commonly recognized. Therefore, it requires close collaboration among the bank, the cooperative, and the contractor. Such collaboration should include the establishment of a mechanism for cash flow and proper organization during the project's construction phase, including the coordination of construction and payment schedules.

To be noted

Verify that the bank will offer a loan commitment for a construction loan and mortgage loans. If this option is not available, discuss whether the bank will offer another type of guarantee of financing.

Such a guarantee is particularly useful when signing an agreement with the contractor.

References

See Step C-13 for parallel action by the cooperative.

See also below, Step B-8 for construction loan repayment.

Step B-6

☒ Bank approves the construction loan

Purpose

Obtaining approval of the construction loan from the bank allows the cooperative to make a secure decision to begin construction and guarantees payment to the contractor for construction work.

Commentary

The amount of the construction loan is determined by the bank and typically equals the difference between the estimated cost of the project and cash on hand, in form of down payment and bank guaranteed personal deposits transferable to the cooperative's account during construction. The construction loan thus represents a sum of cash obligated in the form of bank deposits, certified checks, deposits in the cooperative's escrow account, and the total value of the individual mortgages committed by the bank to the members or only the total value of all individual mortgage loans. The contractor may also agree to provide credit during construction using his own resources, separate from the down payments. If so, the contractor's fee will include a charge for interest on the loan. Payments can be incorporated into each member's individual mortgage loan. The bank and the cooperative can negotiate the terms of interest on the construction loan and the procedures for repayment, which vary from bank to bank. Examples include:

- interest payments made by the cooperative from the members' interest payments,
- interest payments made by the cooperative from the members' pre-deposited interest accounts,
- interest and capital paid by the members' individual mortgage loans,
- interest paid in full by the cooperative at the completion of construction.

To be noted

Be aware of all the positive and negative arguments related to different interest repayment procedures for the construction loan.

When negotiating with a bank for a construction loan, ask about alternatives.

Be certain that the schedule of payments to the contractor corresponds to the bank's schedule for loan disbursements and the bank's technical abilities to provide a required service.

The agreement with the contractor should clearly define who is responsible for additional interest payments on the loan in the event of delays in construction.

References

See also below, Step B-8 for construction loan repayment.

Step B-7

☒ Bank reviews construction progress and disburses loan funds

Purpose

Construction progress is reviewed throughout the construction period and allows the bank to be assured that construction is proceeding according to plan and consistent with acceptable standards. It also allows the borrowers to feel secure that their interests are being safe-guarded.

The cooperative disburses funds (cash payments made by the members) when the cooperative's construction administrator approves the construction work and the invoices submitted by the contractor. When a bank provides construction financing, the decision about disbursing funds is made by the cooperative following a review of construction progress by an inspector, who represents the bank, and the construction administrator, who represents the cooperative.

Construction review is performed throughout the process by the cooperative construction administrator together with the bank inspector, in accordance with the cash flow schedule coordinated with specific work completion by the contractor.

The subjects of evaluation are: work quality, timeliness, conformance with contract documents, test of materials, and coordination between cash flow and construction schedules.

The work must be accepted by the bank's inspector prior to approval by the cooperative's representative.

Commentary

Recommendation for payment is made approximately once a month when contractual work has been accepted by the bank's inspector, if loan funds are involved, and by the construction administrator.

The construction administrator inspects on-site work periodically to ensure the quality and quantity of the work and its compliance with the approved design and terms of the agreement between the cooperative and the contractor.

Disbursements should not occur more often than twice a month. Typically, they occur once a month.

The bank may determine other frequencies for construction inspections and the schedule of loan fund disbursements.

The construction agreement should clearly establish the scope and schedule of work. The quality and timeliness of the contractor's performance are key factors in determining whether the work is acceptable and whether payment will be authorized.

To be noted

The construction administrator should be a licensed professional, with knowledge and experience, and must understand the procedures required to inspect the work for which payment is requested.

After a positive review, he formally accepts the work in the project's construction record book.

After compliance with bank procedures, the next disbursement of loan funds occurs.

Funds from members' individual savings accounts at the PKO BP Bank may be used for payments under specific conditions. The funds can be released after the cooperative issues members a written authorization for occupancy of their unit.

References

See Step M-9, Step C-16 and Step G-7 for parallel action by the members, the cooperative, and

the gmina.

Step B-8

- ☒ Bank inspects construction upon completion
- ☒ Bank authorizes final payment to the contractor

Purpose

In order to authorize final payment to the contractor, a construction completion inspection is conducted by the bank's inspector on behalf of the bank and by the construction administrator on behalf of the cooperative, the contractor, and the members who purchase the housing units.

Commentary

The cooperative can decide to make the final disbursement of funds to the contractor following a final inspection and acceptance of the completed construction by the bank's and the cooperative's inspectors and authorized cooperative members.

The same people also participate in inspection of partially completed work. A notarial ownership transfer is planned before the construction's final completion. The final inspection must also be completed prior to transfer of ownership of the units from the cooperative to individual members and prior to the receipt of final payment from the members. The cooperative obtains the funds to pay the contractor from the members' cash payments and mortgage loans.

If repayment of the cooperative's construction loan is arranged only through the members' mortgage loans, the action must be legalized under the procedures of the Notarial Act in order for the bank to transfer the repayment obligation and make a final disbursement to the contractor. The contractor should be advised that lengthy legal procedures are involved when final payment is made by amending the members' individual mortgage loans. The period before final payment is disbursed is affected by bank regulations and performance, as well as court procedures and its length is difficult to determine due to lack of clear regulations. Additional interest payments to the contractor should immediately be assumed by the members in case there is a delay in the final payment, and an agreement should be signed between the cooperative, the member, the bank and the contractor to resolve any problems.

To be noted

A member who pays in full for his or her unit at the end of construction may pay less than a member who obtains a mortgage loan if there are delays in the loan process and, therefore, repayment of the construction loan. Delays will result in additional interest charges. To avoid or minimize interest charges, it is advisable to plan the ownership transfer process as well as the time of the bank inspection and the land deed registration with the bank's concurrence so all procedures will be coordinated with the construction's final payment.

Because of the lengthy procedures involved in the transfer of ownership under the procedures of the Notarial Act and registration with the court, both of which are required to amend the mortgage loan to include the construction loan repayment obligation, it is advisable to initiate the process early (e.g., two months before completion of construction) if the contract and cooperative statutes allow.

References

See Step C-17 for parallel action by the cooperative.

Step B-9

- ✓__Bank approves individual mortgage loans
- ✓__Bank coordinates repayment of the construction loan

Purpose

After the formal transfer of ownership of the property and registration of the mortgage on the title deed, repayment of the construction loan can be arranged either by its direct conversion to individual mortgage loans or by issuing mortgage notes to eligible members. A mortgage note is a document issued by a bank as confirmation that a mortgage loan is approved for an individual member. The note guarantees the repayment of the cooperative's construction loan when different banks are responsible for providing the construction and mortgage financing. The bank transfers money directly to the cooperative when the member signs an affidavit agreeing to such action.

Commentary

The cooperative helps the members obtain individual mortgage loans by handling the application process with the bank and the court, where the mortgage is registered on the property's title deed. In turn, each member signs an affidavit which authorizes the transfer of funds from his or her mortgage loan to the cooperative's account to repay the construction loan.

The eligibility of individual members for mortgage loans is one of the conditions required by the bank before issuing a construction loan to the cooperative.

To be noted

Repayment of the construction loan is due on a specific date set by the bank; the cooperative is committed to repay the loan in full and on time. Consequently, it is necessary to have clear contracts between the cooperative and individual members, with specific terms regarding the schedule of payments and penalties for default.

A delinquency in the payments required in the agreement between the cooperative and contractor or in the contracts between the cooperative and members can contribute to delays in the construction process and, ultimately, in the cooperative's bankruptcy and loss of the property. Therefore, the cooperative transfers ownership of the property to individual members only when one of

the following alternatives is met:

- The cooperative and member accept the completed construction and financial matters with the contractor are settled.
- The contractor continues work after payment for work that is already completed. The member takes ownership of the property with the condition that they are responsible for the continuation of construction and the associated financial obligations. Failure to fulfill their responsibilities may result in a revocation of the legalization of ownership.
- The cooperative and member accept the completion of construction and the member accepts the obligation for any further financial obligations, with the approval of the contractor.
- The contractor continues work and the member accepts the obligation for any further financial and legal obligations, with the approval of the contractor, and undertakes full responsibility for construction administration until its completion.

References

See Step M-11, Step C-1B, and Step G8 for parallel action by the members, the cooperative, and the gmina.

See Document B9(a) in Appendix 4 as a sample of a letter of approval for a mortgage loan.

See Document B9(b) in Appendix 4 as a sample of a mortgage loan contract.

See Document B-9(c) in Appendix 4 as a sample of an affidavit to transfer mortgage funds to the cooperative.

See Document B-9(d) in Appendix 4 as a sample of a motion to register a mortgage loan on the property's title deed.

